

Report of Royalty Management and Delinquent Account Collection Activities Fiscal Year 2000

Minerals Revenue Management





United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

AUG 23 2002

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. Cheney:

The enclosed annual report addresses royalty management and delinquent account collection activities for Federal and Indian mineral leases. The report is submitted under the provisions of section 302 of the Federal Oil and Gas Royalty Management Act of 1982 and section 602 of the Outer Continental Shelf Lands Act Amendments of 1978.

A similar letter is being sent to each Member of Congress on the enclosed list.

Sincerely,

P. Lynn Scarlett
Assistant Secretary
Policy, Management and Budget

Enclosures

Enclosure

Similar letters sent to:

The Honorable J. Dennis Hastert, House of Representatives
The Honorable Robert C. Byrd, United States Senate
The Honorable Ted Stevens, United States Senate
The Honorable Conrad Burns, United States Senate
The Honorable Jeff Bingaman, United States Senate
The Honorable Frank H. Murkowski, United States Senate
The Honorable C. W. "Bill" Young, House of Representatives
The Honorable David Obey, House of Representatives
The Honorable Joe Skeen, House of Representatives
The Honorable Norman Dicks, House of Representatives
The Honorable James V. Hansen, House of Representatives
The Honorable Nick J. Rahall, House of Representatives
The Honorable Barbara Cubin, House of Representatives
The Honorable Ron Kind, House of Representatives

Report of Royalty Management and Delinquent Account Collection Activities Fiscal Year 2000

Minerals Revenue Management

U.S. Department of the Interior
Gale A. Norton, Secretary

Land and Minerals Management
Rebecca Watson, Assistant Secretary

Minerals Management Service
R. M. "Johnnie" Burton, Director

Offshore Minerals Management
Thomas A. Readinger, Associate Director

Minerals Revenue Management
Lucy Querques Denett, Associate Director



Please visit our Internet site at <http://www.mms.gov>.
For a copy of this report and other mineral statistical publications, please see:
<http://www.mrm.mms.gov/Stats/statsrm.htm>

If you would like additional copies of this report or if you have inquiries, please contact:

Minerals Management Service
Minerals Revenue Management, Mail Stop 320B2
P.O. Box 25165
Denver, CO 80225-0165

Steve Rawlings
(303) 231-3230
Steven.Rawlings@mms.gov

Claire Schaeffer
(303) 231-3067
Claire.Schaeffer@mms.gov

Hannah Price
(303) 231-3373
Hannah.Price@mms.gov

TABLE OF CONTENTS

	Page
INTRODUCTION	1
I. MINERALS REVENUE MANAGEMENT ACCOMPLISHMENTS	2
A. MRM Reengineering Project	2
1. Background	2
2. Road Map to the 21 st Century	3
3. Current Initiatives	4
B. RIK Pilot Programs	8
C. RIK Road Map to the Future	9
D. Royalty Policy Committee	10
A. Initial RPC Subcommittees	10
B. Coal Subcommittee	11
C. Sodium/Potassium Subcommittee	12
E. Automated Systems Initiatives	12
1. Network Enhancements	12
2. Desktop Computer Upgrades	13
3. MMS Internet Page	13
F. Improved Services to Tribes and Individual American Indian Mineral Owners	13
1. Indian Minerals Steering Committee	14
2. Indian CAM	15
3. American Indian Nonstandard Lease/Agreement Accounting	19
G. Regulatory Initiatives	19
1. Indian Gas Valuation Regulations	19
2. Revision of MMS Oil Royalty Valuation Rules	20
3. Amendment to Gas Allowance Regulations	22
4. Late and Overpayment Interest Under Section 6 of RSFA	23
5. “Takes Versus Entitlements” Under Section 6 of RSFA	23
6. Marginal Property Relief Under Section 7 of RSFA	23
7. Prepayment of Royalties Under Section 7 of RSFA	24
8. Electronic Reporting	24
9. Solid Mineral Reporting Requirements	24
H. Civil Penalties	24

	Page
I. Training Programs	25
1. Payor Training	25
2. Operator Training	25
3. American Indian Gas Valuation Training	25
4. Rocky Mountain Mineral Law Foundation Special Institute	25
5. Workforce Training	25
 II. MINERAL REVENUE COLLECTIONS AND DISBURSEMENTS	 27
A. Mineral Revenue Collections	27
B. Mineral Revenue Disbursements	30
 III. MRM UNDERPAYMENT DETECTION PROGRAMS	 33
A. Determination of Royalties Owed to the Federal Government	33
1. Multiple Lease Ownership	33
2. Erroneous Reporting	34
3. MRM Valuation Guidance	35
B. Audit Initiatives and Programs	36
1. Contract Settlements	36
2. Crude Oil Pricing	36
3. Audit Collections and Refund Denials	38
4. State and Tribal Audits	39
C. Exception Identification Programs	41
1. AFS/PAAS Exceptions	41
2. AFS Exceptions	41
3. Allowance Exceptions	42
4. Liquidated Damage Assessments	43
5. OCS Recoupments	43
6. American Indian Recoupments	44
7. Improper Adjustments	44
8. Royalty Rate Monitoring	44
D. Delinquent Accounts Receivable	45

	Page
IV. INSPECTION AND ENFORCEMENT	49
A. Onshore	49
1. BLM Inspection and Enforcement Program	49
2. Program Review	50
3. BLM Certification and Training Programs	50
4. FOGRMA Regulations	51
5. Cooperative Agreements Under Section 202 of FOGRMA	52
6. Delegations of Authority Under Section 205 of FOGRMA	53
7. FY 2000 Inspections and Enforcement Actions for Noncompliance	53
8. Production Accounting for Onshore Oil and Gas Leases	53
B. Offshore	54
1. MMS Offshore Inspection Program	54
2. Offshore Inspection Activity	55
V. MRM ORGANIZATION, FUNCTIONS, AND STRUCTURE	56
A. Federal Resources	56
B. Contract Support	57
1. American Management Systems Operations Corporation, Inc.	57
2. Optimum Management Systems, LLC	58
3. ViON Corporation	58
4. Decision One Corporation	58
5. SupplyTech, Harbinger Corporation	59
6. Performance Engineering Corporation	59
3. Accenture (formerly Andersen Consulting)	59
VI. STATUS OF THE LINOWES COMMISSION RECOMMENDATIONS	61
GLOSSARY	63
APPENDIX - STATISTICAL HIGHLIGHTS	70

TABLES

	Page
1. Comparison of mineral revenue collections, FY 1999-2000	28
2. Mineral revenue collections, escrow release, and settlement payments, FY 2000	29
3. Disbursement of mineral lease revenues, FY 2000	30
4. Distribution of onshore mineral revenues to 35 States by the Minerals Management Service and the Bureau of Land Management, FY 2000	31
5. Distribution of offshore royalties, rents, bonuses, and settlement payments to seven States, FY 2000	32
6. Factors associated with multiple lease ownership, FY 1999-2000	34
7. Additional royalties, interest, and damages collected, FY 1999-2000	38
8. Collections resulting from cooperative and delegated audits, FY 1999-2000	40
9. Revenues collected from exception identification programs, FY 1999-2000	45
10. Actions to secure payment on delinquent accounts, FY 1999-2000	47
11. Delinquent accounts activity, FY 1999-2000	48

Fiscal Year 2000 Report of Royalty Management and Delinquent Account Collection Activities

INTRODUCTION

This report consolidates two separate reports previously submitted to Members of Congress under section 302 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) and section 602 of the Outer Continental Shelf Lands Act (OCSLA) Amendments of 1978.

Section 302 of FOGRMA requires the Secretary of the Interior to submit an annual report to Congress addressing efforts to implement the provisions of FOGRMA for mineral leases on Federal and American Indian lands. The Secretary, in consultation with the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources, determined that the Minerals Management Service (MMS) Royalty Management Program, now known as Minerals Revenue Management (MRM), would prepare an annual report addressing the following subjects:

- MRM accomplishments;
- Mineral revenue collections and disbursements;
- MRM underpayment detection programs;
- Inspection and enforcement;
- MRM organization, functions, and structure; and
- Status of recommendations submitted by the Commission on Fiscal Accountability of the Nation's Energy Resources (the Linowes Commission).

Section 602 of the OCSLA Amendments of 1978 requires a similar report addressing delinquent royalty account collection efforts and new auditing and accounting procedures designed to ensure accurate and timely payment of royalties and net profit shares. The report addresses activities during the preceding 2 fiscal years for leases issued under any Act that regulates the development of oil and gas on Federal lands.

Consolidation of the FOGRMA and OCSLA reports eliminates redundancy in MRM accomplishment and audit narratives, provides a more concise document for review by Members of Congress, and reduces preparation and printing costs.

I. MINERALS REVENUE MANAGEMENT ACCOMPLISHMENTS

The Department of the Interior and MMS continued efforts in Fiscal Year (FY) 2000 to improve accountability for the Nation's mineral revenues and to improve service to the States, the American Indian community, and industry. This report highlights significant program accomplishments and initiatives implemented during the year.

A. MRM Reengineering Project

1. Background

The MRM undertook a compliance reengineering initiative in April 1996 to examine the current compliance strategy and determine the best approach for accomplishing future goals and objectives. The principal objective was to define and implement a cost-effective strategy to ensure that Federal and American Indian mineral lease revenues are paid to MMS in an accurate, timely manner.

Enactment of the Federal Oil and Gas Royalty Simplification and Fairness Act (RSFA) in August 1996 materially changed many historic MRM operating assumptions as well as some fundamental Federal oil and gas financial activities. Although immediate changes in processes and systems needed to be made to implement the law, it was apparent that long-term strategies, business processes, and aging systems had to be addressed for MRM to be cost-effective and responsive to customer requirements.

The MMS announced on April 1, 1997, that the effort would expand beyond compliance reengineering to a comprehensive reengineering of all MRM core business processes. The MMS established a Program Reengineering Office in MRM to manage and coordinate the initiative. The MMS assembled a group of senior MRM managers from diverse disciplines to administer the project.

The MMS completed the initial redesign work, including prototype development and testing, through a multidisciplinary team of MMS, State, and Tribal representatives, with technical contract assistance. Consultations with customers have been critical in better defining future business approaches and processes.

The principal objective of the expanded initiative is to design, develop, and implement new core business processes with supporting systems for the 21st century. The systems and processes must be flexible and capable of meeting customer needs, including:

- Supporting the collection of royalties both in cash and in kind;
- Supporting delegated activities related to royalty administration;
- Empowering MRM to provide related financial services for other customers through business service agreements; and

- Employing a variety of methodologies to value production.

The MRM has been guided by the following stretch goals in the development of new business practices:

- Provide revenue recipients with access to their funds within 24 hours of the due date; and
- Assure compliance with applicable laws, lease terms, and regulations for all leases in the shortest possible time, but no later than 3 years from the due date.

The MRM continues to pursue proactive communication to build consensus, obtain feedback and suggestions, and demonstrate progress in achieving goals. The strategy is directed toward employees, companies, and organizations with a vested interest in the royalty management process. Communication is fostered through electronic media such as the Internet, the Intranet, e-mail bulletin boards, and through meetings with employees, the State and Tribal Royalty Audit Committee (STRAC), Tribes and individual American Indian mineral owners or lessors of allotted leases, royalty payors, and industry trade associations. The MMS remains committed to cost reduction and improved service in the royalty program.

2. Road Map to the 21st Century

In March 1998, the MRM Reengineering Team issued the *Preliminary Design Concepts for the MRM of the 21st Century*. The document presents the findings and preliminary design concepts for future MRM processes and support systems. The concepts were based on extensive technical and analytical studies performed or commissioned as part of the reengineering initiative, past studies and recommendations prepared within MMS, and studies and recommendations presented to MMS by the Royalty Policy Committee (RPC), the Office of the Inspector General, and other organizations. The recommendations served as the foundation for further work performed in technology prototyping, process modeling, and implementation planning.

The MRM published its business implementation plan in November 1998. The *Road Map to the 21st Century (Road Map)* placed MRM on a 3-year path for implementation of new business processes, realignment of organizational structure, and development of supporting automated systems. The *Road Map* groups over 50 key action elements into the following five major areas:

- Transforming future business processes into reality;
- Acquiring information technology solutions;
- Changing regulations and information-reporting requirements;
- Modifying organization structure, transition, and training; and

- Outreach and communication.

The MMS initiated and completed the procurement process for acquisition of information technology solutions to support MRM's future financial business processes. In September 1999, MMS made an award to Andersen Consulting, now Accenture, for the development and installation of a commercial off-the-shelf financial system, relational database management system, and related tools and technologies. The award also included a component for operations and support of the financial system after its implementation.

3. Current Initiatives

Implementation of the *Road Map* proceeded on schedule during FY 2000.

Organizational Realignment

In October 2000, the former Royalty Management Program evolved into a new organizational structure and became known as MRM. The MRM is organized around two core business processes: Financial Management, designed to ensure the efficient collection and disbursement of revenues; and Compliance and Asset Management (CAM), designed to ensure that all revenues are accurately reported and paid and that the compliance status of all leases is known.

Reengineering MRM Business Processes and Systems

The reengineering teams continue to work with Accenture to design and implement a new financial system and CAM support system. The integrated systems include a financial module, a relational database environment, a data warehouse, a variety of technology tools, and a baseline CAM/data warehouse module. The MRM will enhance the data warehouse over a multiyear timeframe as new releases to the software are installed to support the new compliance process.

The MRM reengineered financial and CAM systems began operations in November 2001. The MRM successfully converted mission-critical legacy systems to entirely new applications, processes, and technologies emanating from the reengineering initiative. Virtually every aspect of operations changed, including every interface among MMS, Federal and State agencies, industry, and contractors, as well as reports, procedures, systems, and processes. The MRM achieved its goal to maintain mission-critical operations while accomplishing this complex transition. The MRM ensured:

- Uninterrupted operation of legacy mission-critical systems;
- Successful implementation of new mission-critical systems;
- Migration of 2 decades of royalty and production data to new applications and to a new data warehouse;

- Transition to new industry reporting formats; and
- Transition to a new service provider under a contractor-owned, contractor-operated arrangement.

Financial System Implementation

The new financial system became operational in November 2001. The MRM completed the general and detail system designs from a list of over 800 user-defined business requirements. A significant percentage of development work and data mapping is complete, and data conversion programs have been written. The development effort includes converting over 18 years of data from current systems to a new financial database.

The MRM is closely coordinating development activities with the Office of the Special Trustee and the Bureau of Indian Affairs (BIA). When complete, the MRM will have proper systems interface with the Trust Asset and Accounting Management System and the Trust Fund Accounting System in support of the Department's Trust Management Improvement Project.

The MRM is using the approach of "train the trainers" to prepare for training internal MRM staff in the use of the new financial components of the system. These components consist of reference data, royalty and production processing, payment processing and matching, billing and debt collection, distribution and disbursement, general ledger, and exception processing. This is not "one size fits all" training, but is customized to meet individual requirements of MRM employees.

Industry Conversion

One of the most important and sensitive tasks completed before implementation of the new financial system was industry conversion. The MRM continues to increase communication efforts to provide as much information as possible to industry partners, individual companies, and industry organizations. This includes:

- Providing production and royalty reporter handbooks in compact disk formats by June 2001;
- Conducting reporter training in several cities;
- Providing testing capabilities for a few of the large reporters;
- Providing a continual update to frequently asked questions; and
- Corresponding with companies, as needed, as well as informational releases to industry associations.

Electronic Commerce

Peregrine Systems, Incorporated (formerly Harbinger Corporation), continues to convert the remaining paper reporters to electronic media and consolidate the various electronic reporting approaches into a single, consistent, electronic data interchange reporting methodology using web-based options. Currently, MRM receives about 80 percent of royalty and production lines, and 95 percent of royalty payments electronically. With industry cooperation, MRM hopes to approach its long-term goal of 100 percent electronic reporting (except for a small number of financial hardship cases permitted by regulation) during FY 2002.

CAM System Implementation

In September 2000, MRM awarded a contract to Accenture for the development of the CAM process support systems, including a data warehouse with full integration with the financial system, and a variety of compliance planning, control, surveillance, analytical, and case management tools. The new system began operations in November 2001.

The Compliance Implementation Project Team is managing the CAM system design and implementation effort. This is a joint development team comprised of MRM employees, State and Tribal representatives, and Accenture employees.

The Onshore CAM developed and tested new functional requirements for the Common Reference Database to accommodate new reporting requirements under the American Indian Gas Rule. These functional requirements will be utilized in a new automated system for an interest program, dual accounting elections, and index/nonindex identifiers. The Onshore CAM also developed new procedures and programs to calculate American Indian gas major portion and index prices and to target properties to verify dual accounting.

CAM Operational Models

Work continued on four Operational Models (Models): Onshore Oil and Gas, Onshore Solid Minerals, Offshore Oil and Gas, and Jicarilla Apache Tribe. The Models were established to:

- Complete design and testing of future compliance and asset management processes;
- Develop a thorough understanding of information technology requirements;
- Determine, in concert with States and Tribes, delegation implications; and
- Address organizational and cultural issues.

The Models have proven effective in testing and refining the CAM process, developing the requirements for the automated support systems, and beginning the transition of MRM compliance personnel to the new operational process.

Upon successful transition to the CAM automated support system, MRM will perform compliance activities based on revenues expected from individual mineral properties, variations from expectations, targeting research and evaluations, targeted auditing, random auditing, and settlements. Resources have been dedicated to building property and company profiles and conducting audits of gas plants and transportation systems in support of the CAM operations.

The Models, which include representatives from MMS, States, and Tribes, are applying compliance and asset management processes in a live environment to subsets of the lease universe. The Models are working in close partnership with industry to produce the most efficient and effective compliance business processes for the future. An example of the work of two of these Models follows:

- The Onshore Oil and Gas Operational Model consists of 25 State, American Indian, and Federal members who coordinate with representatives from the BIA, the Bureau of Land Management (BLM), and a number of oil and gas companies. This coordination encourages the sharing of information and knowledge to ensure compliance, reduce costs, and improve efficiency for both industry and the Federal Government.

The Model is working with a subset of 501 Federal onshore and American Indian properties to develop and test a process to produce compliance determinations in the shortest period of time, but no later than the goal of 3 years from the royalty payment date. The Model incorporates selected Southern Ute and Wyoming properties. The Wyoming properties include both royalty-in-value and royalty-in-kind (RIK). By applying the property-based compliance approach to RIK properties, MMS is able to complete its review within the 90-day business cycle goal. The Model has initiated a gas plant audit, a transportation system audit, 22 random audits, and has identified and collected more than \$350,000 in additional royalties.

The Denver Federal Executive Board selected the Model as the winner of the Excellence in Government Award for its accomplishments on May 9, 2001.

- The Solid Minerals Operational Model initially involved 83 Federal and American Indian leases operated by six major coal companies and a sand and gravel operator. The leases are located in four States and on two Tribal lands. The Model tested and evaluated new electronic reporting and compliance methods to achieve the 3-year compliance goal. Participating companies have submitted all sales contracts for 1999 and are reporting sales summary activity occurring under those agreements. Personnel with MMS are reviewing the documents to identify discrepancies and contacting the firms to resolve issues as necessary. Random audits have been completed on 2 of 11 mines.

The Model added two additional coal mines and two American Indian sand and gravel properties in January 2000. Random audits for 12 other properties have been scheduled for completion in 2001. The Model developed and tested Internet reports to access and view compliance data. The compliance process detected an \$11 million contract buydown in November 2000 that is the subject of a current audit.

B. RIK Pilot Programs

An MMS feasibility study in 1997 concluded that, under the right conditions, RIK programs could generate additional revenues and be more efficient for both government and industry. The MMS Director established the RIK Implementation Team in 1997 to study these issues. The team implemented the following four pilot programs based on the 1997 study recommendations:

- Crude oil in Wyoming;
- Natural gas in the Texas 8(g) zone of the Gulf of Mexico;
- Natural gas from Federal leases in non-8(g) areas throughout the Gulf of Mexico; and
- Crude oil from Federal leases in non-8(g) areas throughout the Gulf of Mexico.

Both the Wyoming and Texas 8(g) pilot programs are expected to last a minimum of 2 years. The Gulf of Mexico pilots are expected to last 3-4 years. All four pilot programs are expected to provide the foundation for the evolution of RIK activity.

The MMS has solicited participation from States affected by the pilot programs. The MMS is further evaluating the feasibility and efficiency of providing RIK production to other Federal agencies for consumption within the Federal Government.

The four pilot programs are designed to demonstrate conclusively if RIK programs are viable options for the Federal Government and to determine the optimal means for implementation.

Evaluation of the impact on revenues and administrative costs for the Wyoming pilot was completed in March 2001. The draft pilot evaluation report has been circulated to the public for comment. Similar analyses of data from the later pilots will begin as sufficient information becomes available. Recurring pilot activities will be integrated into the MRM reengineering project to ensure that potential transitions of RIK pilot programs to long-term RIK programs will be successful.

A summary of the status of each of the four RIK pilot programs follows:

- **Crude oil in Wyoming.** The MMS began taking oil under this program in October 1998. The oil was delivered to successful bidders under an Invitation for Bids (IFB) issued in July 1998 for production from Federal leases in Wyoming. A second IFB, offering RIK crude oil from both State of Wyoming and Federal leases beginning in April 1999, was developed in partnership with the State and issued January 4, 1999. Additional IFBs have followed, including a sixth IFB issued in January 2001. The State has continued to participate actively with MMS in the Wyoming pilot. Contracts resulting from these sales have generally been for a 6-month term.

The MMS began to shift sale operations for Wyoming royalty crude oil to a more permanent location in MRM in early 2000. The MRM further began implementing new, concise reporting requirements for Wyoming royalty oil in April 2000.

- **Natural gas in the Texas 8(g) zone of the Gulf of Mexico.** Section 8(g) of the OCSLA Amendments of 1978 provided that the States were to receive a 27 percent share of revenues generated from the leasing of public lands within 3 miles of the seaward boundary of a coastal State. These lands contain one or more oil and gas pools or fields underlying both the Outer Continental Shelf (OCS) and lands subject to the jurisdiction of the State.

This pilot program involves leases located in the 3-mile section 8(g) zone off the coast of Texas. The program commenced in December 1998 when MMS began taking natural gas for delivery to the General Services Administration (GSA) for use by Federal agencies.

The MMS is also exploring ways to market Federal and State natural gas production in a cost-effective manner pursuant to a cooperative agreement with the State of Texas General Land Office. Under the agreement, Federal royalty gas from the 8(g) zone is being marketed in a program of both monthly and seasonal term sales competitively on the open market.

- **Natural gas from Federal leases in non-8(g) areas throughout the Gulf of Mexico.** This pilot program involves significantly larger amounts of royalty production and larger numbers of leases than the other two pilots. The program is expected to run 3-4 years. The first offering in this pilot was under an IFB issued October 8, 1999. Successful bidders took production for a term of 4 months. Additional IFBs were subsequently issued with terms varying up to 1 year.

The MMS may deliver natural gas to GSA for use by Federal agencies similar to the Texas 8(g) pilot.

- **Crude oil from Federal leases in non-8(g) areas throughout the Gulf of Mexico.** In August 2000, MMS announced the competitive public offering of RIK oil from 58 leases in the Gulf of Mexico. An award was made of 7,000 barrels per day of oil production for a 6-month term. In August 2001, three awards for crude oil were made for approximately 47,000 barrels/day from 18 properties in the Gulf of Mexico.

C. RIK Road Map to the Future

The MMS issued the *RIK Road Map to the Future* in January 2001. This document presents a 3-year plan that will enable the RIK initiative to evolve from a pilot phase to an operational activity. Action elements in the document address the development of business processes, organizational structure, and automated systems support for future MRM RIK activity.

D. Royalty Policy Committee

The MRM established a 29-member RPC in FY 1995 as part of the Minerals Management Advisory Board to provide recommendations and guidance on royalty management policies and procedures. The RPC is composed of representatives from the Western Governors Association, Western States Land Commissioners' Association, States, Tribes and individual American Indian mineral owner organizations, the mineral industry, other Federal agencies, and interested members of the general public.

1. Initial RPC Subcommittees

The RPC initially designated 11 subcommittees to study the following issues:

- Royalty reporting and production accounting;
- Valuation;
- Audit;
- Appeals, settlements, and alternative dispute resolution;
- Nonconventional alternatives;
- Disbursements and net receipts sharing;
- Coal;
- Phosphate, trona, and leasable solid minerals;
- Lessee-Designee requirements;
- Accounting relief for marginal properties; and
- Freedom of Information Act (FOIA) request processing.

The subcommittee for valuation disbanded in June 1996. The subcommittee for nonconventional alternatives disbanded in January 1999. To accommodate a Tribal request, MRM established a FOIA subcommittee on the RPC to address administration of FOIA requests concerning Tribal issues. Six subcommittees have submitted final reports to the RPC on the following issues:

- Royalty reporting and production accounting;
- Audit;

- Appeals, settlements, and alternative dispute resolution;
- Lessee-designee requirements;
- Disbursements and net receipts sharing; and
- Accounting relief for marginal properties.

The recommendations from five of the subcommittees were approved by the RPC. The RPC forwarded the disbursements and net receipts sharing report without action to BLM, the Forest Service, and MMS for consideration. Each agency was asked to respond to legal and accounting issues that have been raised.

The audit report excluded coal issues. The Coal Subcommittee will address coal audit with other coal issues.

The final conceptual report on accounting relief for marginal properties did not address a proposed draft rule for royalty prepayment. The Subcommittee completed deliberations on royalty prepayment in January 2002. The subcommittee submitted its report on royalty prepayment to the RPC in March 2002.

Work on the remainder of the reports is in process or under study in conjunction with efforts to implement RSFA and the MRM reengineering project. The MMS is committed to reinventing MRM core business practices and serving the needs of customers by working closely with constituents. The RPC believes implementation of its recommendations will create significant administrative savings for both government and industry.

Actions by the Coal Subcommittee and the Sodium/Potassium Subcommittee require a more detailed explanation.

2. Coal Subcommittee

The RPC chartered the Coal Subcommittee in late 1995 when the RPC was formed. The Coal Subcommittee has met routinely since early 1997, serving as a forum to facilitate discussion among State, American Indian, and industry participants concerning the application of current regulations. Work continues on recommendations to improve current regulations based on changes in the coal industry and the electric utility market which consumes nearly 90 percent of all coal used in the United States. The Coal Subcommittee pursued the following additional initiatives:

- Clarification of provisions of RSFA that will be applied to solid minerals;
- Clarification of proprietary information;

- Preparation of recommendations for improved audit procedures; and
- Preparation of a request for the Solicitor's opinion to determine whether royalty may be collected on remined coal material stored off lease.

The Solicitor provided an opinion in October 2001 indicating that royalty may be collected on remined coal material under an existing lease.

3. Sodium/Potassium Subcommittee

The Sodium/Potassium Subcommittee (S/P Subcommittee) was reorganized by the RPC on September 25, 1997, to assist MMS in drafting revised product valuation regulations for sodium and potassium. The S/P Subcommittee is composed of State representatives from Colorado, New Mexico, Utah, and Wyoming; industry representatives from California, Colorado, New Mexico, and Wyoming; and RPC representatives.

The S/P Subcommittee has prepared a set of draft valuation regulations. The recommendations for valuation of sodium and potassium lease production are necessary in view of the increasing complexities associated with processing and marketing over the years. New products are generated from ores that often require extensive chemical additions and processing. Significant sales are made to foreign buyers under both arm's-length and non-arm's-length situations.

Current regulations provide no guidance for valuing production under these varied situations. The regulatory package drafted by the S/P Subcommittee fills this void, addressing the situations in detail; however, not all members agree with the provisions of the draft regulations. The RPC suggested that the S/P Subcommittee attempt to obtain consensus among the members. The S/P Subcommittee met in June 2001. As a result of that meeting, three industry representatives decided to attempt to resolve their differences through private meetings in June and July 2001.

E. Automated Systems Initiatives

Information technology provides access to MRM information from individual workstations to enhance performance, productivity, and support MRM program initiatives. A brief description of some of the more important systems initiatives in FY 2000 follows.

1. Network Enhancements

Networks allow information to be shared among people. The goal of the MRM network is to support the business needs of a dynamic organization.

The MRM upgraded the Exchange/Outlook email system server sites to newer software and implemented Outlook Internet access. These improvements and additional services extend to MMS employees in Washington, D.C., Denver, Herndon, and New Orleans. The new services with attendant benefits have further been extended to Compliance, Indian Royalty Assistance, District, Tribal, and State offices.

The MRM upgraded dial-in hardware during the year. This will provide better security and faster access for remote location users.

The MMS initiated planning for the conversion of telephone services from American Telephone and Telegraph to MCI, an operating unit of WorldCom, Inc. The conversion will include larger bandwidth circuits providing faster access to systems by MMS constituents.

2. Desktop Computer Upgrades

All MRM audit site desktop software was enhanced for greater access speed by replacement of network interface cards. Access speed was increased in a ten-fold manner.

3. MMS Internet Page

The MMS continues to enhance its Internet site on the World Wide Web <<http://www.mms.gov>> to provide current information to the public about MMS activities. The MMS home page includes press releases, statistical information, environmental studies information, oil and gas resource information, Federal Register notices, statutes and regulations governing MMS activities, policy documents, and appeals decisions. There are separate home page locations for MRM, the Offshore Minerals Management (OMM), and OMM Regional Offices.

F. Improved Services to Tribes and Individual American Indian Mineral Owners

The Department continues to emphasize its trust responsibilities in administering revenue collections from American Indian mineral leases. The MRM continued efforts in FY 2000 to improve communications and the delivery of mineral services to Tribes and individual American Indian mineral owners (lessors of allotted leases).

The Indian Oil and Gas CAM (Indian CAM), created in October 2000, incorporated the ongoing work of the former Office of Indian Royalty Assistance to provide coordination and communication with American Indian mineral lessors. The Indian CAM further provides valuation guidance and audit expertise for fluid minerals to Federal, American Indian, and industry representatives.

1. Indian Minerals Steering Committee

The Department chartered the Indian Minerals Steering Committee (IMSC) in late 1994. The IMSC is composed of members from the five Department bureaus that manage American Indian mineral leases, as well as members from the Solicitor's Office and the Offices of the Secretary and the Assistant Secretaries. The MMS is represented by the MRM Deputy Associate Director, the Acting Assistant Program Director for Onshore CAM, the Manager for the Indian CAM, and the Policy and Management Improvement Chief in Denver. The MMS Deputy Associate Director serves as Chairman of the IMSC. The MMS also provides the executive secretary to the IMSC.

The IMSC members conducted meetings in FY 2000 in Albuquerque, New Mexico; Denver, Colorado; Oklahoma City, Oklahoma; and Washington, D.C., to address the following lease management issues:

- Fractionation, a problem involving multiple owners with increasingly smaller ownership percentages as a result of lease heirship in allotted mineral leases;
- Pre-leasing processes and requirements, including drainage of American Indian lands;
- Post-leasing problems, including off-lease measurement; and
- Management of a program to provide representatives from BIA, BLM, and MMS at a single location under one MMS manager in Farmington.

The Farmington program evolved from a National Performance Review Reinvention Laboratory to test new techniques to manage American Indian allottee minerals and to improve services and Departmental cooperation. The effort originated as a pilot program to provide assistance and resolve problems for only the Navajo lessors of allotted leases. The IMSC sponsored a multibureau team to evaluate the Farmington pilot during FY 1999. Based upon the findings in the evaluation, the pilot was extended through October 2001. The pilot became a permanent program on September 28, 2001.

The Farmington Indian Minerals Office completed the following initiatives in FY 2000:

- Inspected 100 percent of Navajo allotted leases, performing 357 surface inspections, 234 operational inspections, and 150 tank gauge reviews;
- Resolved various payment and mineral issues originated by over 3,200 individual Indian customers who visited the office;
- Performed 19 lease cancellations;
- Issued 24 right-of-way permits;
- Issued 34 drilling permits;

- Conducted 20 lease sale meetings;
- Issued 31 new leases; and
- Amended 10 leases.

2. Indian CAM

The Indian CAM is responsible for assuring compliance with lease terms and regulations, coordinating and communicating with American Indian mineral lessors, and for advocating action and change. Offices in Denver, Farmington, and Oklahoma City provide customer service. The Indian CAM fulfills its responsibilities through the following efforts:

- Aggressive lease term compliance;
- Active, recurring outreach in locations with American Indian minerals;
- Policy and regulatory development and review; and
- Development and implementation of American Indian royalty management initiatives.

Major Portion Initiatives

The MRM developed a Major Portion Pricing Initiative in FY 1992 for American Indian leases. American Indian lease terms and valuation regulations require the value of gas to be the higher of either gross proceeds or the highest price paid or offered for a major portion of gas produced from a field or area. Major portion prices are calculated and compared with prices reported by payors. The MRM issues Orders to Pay where appropriate. The MRM has collected \$8 million in additional royalties for Tribes and groups of individual American Indian mineral owners as a result of the effort.

The MMS cannot issue any other Orders to Pay to payors for the time period March 1988 through December 1999 due to an Interior Board of Land Appeals (IBLA) decision (IBLA 98-476) sought by Burlington Resources Oil and Gas Company. In this decision, the judge ruled that MMS was inconsistent with the regulations at 30 Code of Federal Regulations (CFR) Section 206.152(a)(3) because MMS used non-arm's-length sales data when calculating major portion prices. The IBLA decision impacted the ongoing major portion collection efforts.

A summary of major portion initiatives completed through FY 2000 follows:

- **Alabama-Coushatta Indian Tribes and individual American Indian mineral owners.** The Alabama-Coushatta Tribes and individual American Indian mineral owners currently have nine producing leases, all with unique lease terms. Seven of the leases require royalty to be paid

on the highest monthly price in the field. The two remaining leases require royalty to be paid on the arm's-length gross proceeds or highest monthly price paid in the field if production is sold non-arm's-length. The MRM mailed issue letters in July 2000 for the period June 1989 through June 1999 to companies that have potential liabilities. The MRM requested the companies to review their royalty reporting and payments, and to make adjustments if necessary. The MRM is in the process of issuing Orders to Pay for this period.

- **Oklahoma Tribes and individual American Indian mineral owners.** The MRM performed a major portion analysis for Kauley allotted American Indian leases under the jurisdiction of the BIA Southern Plains Regional Office. The effort resulted in the collection of additional royalties for the period 1986-92. The MRM subsequently calculated major portion prices for Kauley American Indian leases for the period 1993-95 and for other American Indian leases in Oklahoma for the period 1988-95. The MRM has collected all revenues under the orders sent; however, approximately one-half of the orders for American Indian leases other than Kauley for the period 1988-95 were not sent due to the Burlington Resources IBLA decision.
- **Southern Ute Tribe and individual American Indian mineral owners.** The MRM performed a major portion analysis for the Southern Ute Indian Reservation, resulting in the collection of additional royalties from 46 payors for the period 1987-91. The MRM subsequently performed a major portion analysis for the period 1984-86 and has sent Orders to Pay to companies with liabilities. There are a number of appeals pending before the MMS Director. The MRM is assisting the Southern Ute Tribe with the collection of additional royalties for major portion analyses in various settlement negotiations.
- **Blackfeet Tribe and individual American Indian mineral owners.** The MRM and the Blackfeet Tribe agreed on a method to calculate major portion prices for the Blackfeet Reservation, resulting in the collection of additional royalties for the period 1986-94. The MRM is currently preparing a corresponding analysis for the period 1984-85.
- **Navajo individual American Indian mineral owners.** The MRM has delineated the major portion area in accordance with the Joint Consent Decree handed down by the New Mexico Federal District Court and has determined the major portion prices for the area from 1984 through February 1988. The Farmington Indian Mineral Office requested the major portion prices, methodology report, draft issue letters, and draft orders from MRM. The Farmington Office has sent the orders out and is performing the followup compliance work.
- **Navajo Nation.** The MRM and the Navajo Nation agreed on a method to calculate major portion prices for gas produced on Tribal leases for the period January 1987 through February 1989. The MRM collected additional royalties from 16 payors for the period. The Navajo Nation agreed to perform a major portion analysis for the period March 1989 through the current date. The Navajo Nation requested that MRM prepare an analysis of major portion prices and liabilities for the period 1984-86. The MRM is in the process of preparing this analysis.

- **Jicarilla Apache Tribe.** The MRM and the Jicarilla Apache Tribe agreed on a method to calculate major portion prices for the Jicarilla Reservation utilizing the Jicarilla RIK sales data. Calculations of the major portion prices are complete. All Orders to Perform major portion and dual accounting for the period 1984 through June 1995 have been sent to payors, and additional royalties have been collected. The Jicarilla Apache Model Team is assisting the Jicarilla Apache Tribe with the collection of additional royalties in settlement negotiations.
- **Ute Mountain Ute Tribe.** The MRM and the Ute Mountain Ute Tribe agreed on a method to calculate major portion prices for areas in the San Juan Basin on the eastern part of the Ute Mountain Ute Tribe Reservation for the period 1984-96. The MRM sent Orders to Pay and has collected additional royalties. The MRM is currently preparing a major portion analysis for the western part of the Reservation for the period 1984 through February 1988.
- **Northern Ute Tribe and individual American Indian mineral owners.** The MRM and the Northern Ute Tribe agreed on a method to calculate major portion prices for Northern Ute Indian Tribal leases, Ute Distribution Corporation (UDC) leases, and Northern Ute individual mineral owner leases. The MRM calculated major portion prices and collected additional royalties for the period 1987-95 for the Northern Ute Tribe and individual mineral owners. Orders to Pay were sent for Northern Ute Tribal leases, UDC leases, and individual mineral owner leases for the period 1984-86. Additional royalties were collected. The MMS is preparing a major portion analysis for the period 1984 through February 1988 for the UDC.
- **Shoshone and Arapaho Tribes.** The MRM worked with the Shoshone and Arapaho Tribes to analyze the methodology used by the Tribes to calculate major portion prices for the period 1988-99. The MRM assisted the efforts of the two Tribes to collect additional royalties for major portion analyses. The Shoshone and Arapaho Tribes are not affected by the Burlington Resources IBLA decision because they are not using the Auditing and Financial System (AFS) database. They are using actual sales data where they can differentiate between arm's-length and non-arm's-length sales.
- **Fort Berthold, Fort Belknap, Rocky Boys, and Turtle Mountain Indian Reservations.** The MRM finalized the methodology reports for the Fort Berthold, Fort Belknap, Rocky Boys, and Turtle Mountain Reservations. Data have been analyzed and major portion prices have been calculated for the periods 1984 through February 1988. The MRM mailed Orders to Pay for the major portion liabilities and has collected all revenues associated with those orders.
- **Fort Peck Indian Reservation.** The MRM has developed a methodology report and determined major portion prices for the Reservation for the period 1984 through February 1988. The MRM is in the process of preparing major portion Orders to Pay for that period.

Indian CAM Initiatives

The Indian CAM has pursued the following initiatives from its inception in October 2000:

- Conducted over 100 outreach meetings with individual American Indian mineral owners, including four by Navajo Radio. Conducted 15 Tribal meetings, including some weekend seminars, to discuss mineral-related concerns. Representatives from BIA and BLM often attended the sessions, facilitating the Department's seamless delivery of services.
- Resolved 511 formal problems from individual mineral owners during the year. Many inquiries required inter-Bureau coordination to resolve complex issues, again demonstrating the seamless delivery of services to the American Indian community.
- Staffed toll-free lines in Denver and Oklahoma City, providing individual mineral owners with immediate access to Indian CAM personnel. The toll-free numbers are published in "Frequently Asked Questions," distributed with Explanation of Payment reports on an as-needed basis.
- Implemented a computer program, in conjunction with MRM's Information Technology Center and the BIA Eastern Oklahoma Regional Office, to improve the administration of payments made by companies directly to about 500 mineral owners. The payments are not routed through the Department. The program includes online screens, various reports, and BIA and Indian CAM manual review of discrepancies or exceptions. Officials with the Indian CAM continue to revise the program to meet the needs of the mineral owners.
- Staffed booths at six American Indian pow-wows — Blackfeet, Crow, Little Shell, Southern Ute, and Uintah and Ouray — with the purpose of "going where our customers are" and learning American Indian culture.
- Continued to sponsor the Royalty Internship Program that began in FY 1997. The program is designed to assist mineral-producing Tribes who are considering self-governance or self-determination contracts, or Tribes who want to become more familiar with royalty management. The program consists primarily of work assignments by a Tribal employee in one or more of the MRM operating divisions. A Crow Tribal employee worked in Onshore CAM in FY 2000 to learn coal valuation methodologies. The employee also participated with the Onshore Solid Minerals Model through the MRM reengineering effort to learn auditing techniques and procedures.
- Continued to pursue payment agreements resulting from audits and appeals in conjunction with industry and the MMS Office of Enforcement. The payment agreement process allows individual American Indian mineral owners to receive their revenue in an expedient manner.
- Completed a review of MRM's policies and procedures to ensure alignment with Department trust principles as required by the High Level Implementation Plan.

- Established an Indian Business Operation Team, the first business services project, to assist the Department in performing the following functions:
 - Meet all Department trust principles required by the High Level Implementation Plan;
 - Review the Trust Asset and Accounting Management System and the Trust Funds Asset System computer systems; and
 - Complete risk management training.

3. American Indian Nonstandard Lease/Agreement Accounting

The MMS Director initiated accounting responsibility for American Indian nonstandard leases and agreements in March 1988 in response to a systems improvement recommendation from the Royalty Management Advisory Committee. Nonstandard leases and agreements issued under the Indian Mineral Development Act of 1982 (IMDA) include net profit share, joint venture, and any other arrangements negotiated by the Tribes that have a different structure from the standard bonus, rental, and royalty rate arrangement.

The nonstandard provisions of IMDA leases and agreements make it impractical to include them in principal MRM automated systems at this time. Personnel in the MRM Accounts Payable Team use a microcomputer-based system to analyze and account for the unique accounting transactions negotiated by the Tribes. To ensure accurate reporting, employees in Onshore CAM manually sample nonstandard IMDA leases and agreements to compare oil and gas sales volumes reported to AFS by payors with sales/transfer volumes reported to the Production Accounting and Auditing System (PAAS) by lease operators. The MRM is working with Accenture to convert nonstandard lease accounting from the current microcomputer-based system to the new financial system as part of the MRM reengineering initiative.

G. Regulatory Initiatives

1. Indian Gas Valuation Regulations

The MMS published a final rule in August 1999 with an effective date of January 1, 2000. On November 30, 1999, MMS published a Federal Register Notice providing lessees with additional information related to the valuation of American Indian gas produced from leases located in index zones. The MMS also sent a Dear Payor Letter dated December 1, 1999, to all American Indian payors addressing the new requirements of the Indian Gas Rule. This letter provided instructions for payors to calculate and report the gas value and to make a dual accounting election.

On January 11, 2000, MMS published a Federal Register Notice clarifying the Federal Register Notice dated November 30, 1999, concerning valuation of production when leases are excluded from index-based valuation. The MMS further published a Federal Register Notice on February 28, 2000, excluding Alabama Coushatta Tribal leases from the index-based valuation method.

The MMS has established a website to assist American Indian payors with pricing information and to provide direct linkage to all Federal Register Notices and Dear Payor Letters related to the new rule. The implementation of the new regulation includes the development of exception processing routines and new data elements to enforce the new rule.

The MMS has submitted issue letters to all payors that pay on American Indian gas leases that are associated with an index zone and did not pay royalty at or above the monthly index zone price. The MRM mailed 182 variance letters in October 2000 for the production period extending from January 2000 through March 2000. The MMS mailed an additional 207 variance letters in December 2000 for the production period extending from January 2000 through June 2000.

The MMS calculated and published major portion prices and due dates in the Federal Register for the period January through December 2000 as required by the Indian Gas Rule. The major portion prices and due dates as well as the index price zones for January 2000 through June 2000 are listed on an MRM Internet site for industry and the American Indian community. The MMS is in the process of sending over 300 Orders to Pay additional royalty to American Indian gas payors that have not paid royalties based on the major portion, index zone prices, or dual accounting for the year 2000.

2. Revision of MMS Oil Royalty Valuation Rules

The MMS has published a final oil valuation rule for Federal lands and continues to pursue effective oil valuation regulations on American Indian lands.

Federal Oil Valuation Rule

In December 1995, MMS began an effort to revise the oil valuation rule due to the reliance of the existing rule on posted prices. Throughout the rulemaking process, MMS sought active participation from all interested constituents. A summary of MMS activities to determine a fair and reasonable valuation of oil follows:

- Published eight separate notices in the Federal Register to solicit public comment;
- Conducted twenty meetings and workshops in five States and the District of Columbia;
- Received advice from five independent consultants to evaluate proposals; and
- Conducted extensive discussions with a variety of MMS constituents, including
 - Members of Congress;

- Numerous experts in the oil industry; and
- Representatives from California, Colorado, Louisiana, Montana, New Mexico, and Wyoming.

The MMS published a final rule on March 15, 2000, with an effective date of June 1, 2000. On April 10, 2000, the Independent Petroleum Association of America (IPAA) sued the Department over the rule and its “duty to market” provisions. Industry has consistently objected to these provisions.

On June 13, 2000, MMS published a Federal Register Notice titled, *Approved Publications and Tables for Use in Applying Revised Royalty Valuation Regulations for Federal Oil*. The Notice lists approved publications for establishing oil value under §206.104 of the revised Federal oil rule.

On June 20, 2000, MMS published another Federal Register Notice titled, *Market Centers for Use in Applying Revised Royalty Valuation Regulations for Federal Oil*. This Notice lists market centers for establishing oil value under §206.113 of the revised Federal oil rule.

The MMS provided industry training on the rule in various locations around the country in May 2000, and provided similar training at various locations for MMS and State compliance personnel in January and February 2001.

American Indian Oil Valuation Rule

The MMS initially planned to develop an American Indian oil valuation rule separate from the Federal rule, yet comparable in content. In 1997, MMS elected to develop an independent rule for valuing oil produced from American Indian leases due to MMS trust responsibilities and the unique lease terms contained in American Indian leases, particularly major portion provisions. The MMS convened a diverse group of American Indian representatives to solicit their views before drafting the rule.

The MMS published a proposed rule in the Federal Register on February 12, 1998, that would require payors to use the higher of the following criteria:

- The average of the five highest daily New York Merchantile Exchange settlement prices for production in the current month, adjusted for location and quality differences;
- The higher of the lessee’s or the affiliates’ arm’s-length gross proceeds, reduced by appropriate allowances; or
- A major portion value calculated by MMS after the reporting month. The major portion value would be the price at which 75 percent of the volume of oil, beginning with the lowest price, is bought or sold in the designated area. The designated area will normally be a reservation.

The MMS conducted public hearings in Albuquerque on March 26, 1998, and in Denver on April 1, 1998. The comment period closed on May 13, 1998. The MMS met with various

American Indian representatives in December 1998 and January 1999 to discuss comments received and to obtain their feedback on potential changes to the rule.

The language in Conference Report H.R. 4328 that prevented MMS from finalizing the Federal oil rule until October 1, 1999, also applied to the American Indian oil valuation rule. The subsequent extension of the moratorium to March 15, 2000, again applied to both the Federal and American Indian rules.

The MMS published a supplementary proposed rule on January 5, 2000, in response to earlier comments received. The supplementary proposal included changes to the way index prices would be applied and location differentials would be calculated. The MMS conducted an additional public workshop on February 8, 2000. The comment period on the supplementary proposed rule ended on March 20, 2000. The MMS has reviewed the comments received on the revised proposal. Before publishing a final rule, the MMS waited for the Solicitor General's approval of the Federal Government's appeal in the Federal Energy Regulatory Commission (FERC) Order 636 case regarding duty to market. That approval has been given and MMS plans to publish a final rule in 2002.

3. Amendment to Gas Allowance Regulations

The MMS published a final regulation in the Federal Register on December 16, 1997, to clarify royalty implications of FERC Order 636 with an effective date of February 1, 1998. The regulation identifies which cost components or other charges are deductible, or related to transportation, and which costs are not deductible, or related to marketing. Deductible transportation costs include firm demand charges, commodity charges, banking fees, parking fees, and wheeling costs. Nondeductible marketing costs include long-term storage, aggregator fees, and intrahub title transfer fees. The final regulation applies to both arm's-length and non-arm's-length situations for valuing gas production and calculating transportation allowances.

The IPAA and the American Petroleum Institute (API) filed suit against the Department in March 1998. The suits allege that the rule is illegal because it requires lessees to pay royalties based on more than the value of the gas at the wellhead and unilaterally changes the terms of the oil and gas lease. Motion and cross motion summary judgments were filed in September and December 1998. Final simultaneous reply briefs were submitted February 11, 1999. On March 28, 2000, Federal District Court Judge Royce Lamberth (District of Columbia) ruled in favor of IPAA and API. On April 10, 2000, the United States filed a motion to alter or amend the judgment (clarification). The motion to alter or amend postponed the running of time for filing a notice of appeal. The Federal Government filed a notice of appeal within 60 days from the date of the motion.

The Federal Government's motion to alter judgment was approved on September 1, 2000. The Federal Government filed an appeal to the D.C. Circuit Court of Appeals and is awaiting final decision on the matter.

4. Late and Overpayment Interest Under Section 6 of RSFA

Section 6 of RSFA provides that MMS must pay interest on overpayments of royalties (including estimated royalty payments), rents, and other obligations for Federal onshore and offshore oil and gas leases made later than 6 months after the date of enactment on February 13, 1997. The MMS is proposing regulations to implement these interest provisions. The regulations will require payors to calculate and report late-payment and overpayment interest at the same time they report adjustments to royalty principal and other obligations unless they invoke the hardship exemption provided in RSFA.

5. “Takes Versus Entitlements” Under Section 6 of RSFA

Section 6 of RSFA is designed to clarify and resolve the long-standing issues regarding “takes versus entitlements.” These issues address circumstances where the amount of natural gas taken and sold from a Federal lease in a unit or communitization agreement is not equal to the lessee’s entitled share based on their ownership interest in the leases in the agreements. This imbalance raises questions about who should report and pay royalties associated with specific volumes in specific leases. The MMS is proposing regulations to clarify when a Federal lessee must report and pay royalties on the volume of oil and gas taken from a lease or on the volume the lessee is entitled to withdraw based on their ownership interest in the lease.

6. Marginal Property Relief Under Section 7 of RSFA

Section 7 of RSFA provides that lessees may seek to either prepay future royalties or obtain accounting relief on marginal properties. The law requires that accounting relief be made available within 1 year from enactment and that prepayment of royalty be available no earlier than 2 years from enactment. The MRM is developing regulations to implement both alternatives.

After conducting three workshops with representatives from industry and State governments, MRM published a proposed rule addressing accounting and auditing relief for marginal properties in the Federal Register on January 21, 1999. The proposed rule included three notification-based relief options and three request-based relief options designed to encourage continued production on wells that may otherwise be abandoned.

The MMS extended the comment period from March 22, 1999, to April 21, 1999, at the request of the States. The MMS later extended the comment period to May 6, 1999, at the request of STRAC. Comments from State representatives advised that MMS was proposing too much relief to industry. Industry sources indicated that the rules did not provide enough relief and were too complicated.

The MMS asked the RPC to convene a subcommittee to resolve the differences between the States and industry. The subcommittee met in December 1999, August 2000, and January 2001. The subcommittee submitted its final report to the RPC on March 27, 2001, recommending two relief options: one notification-based relief option for cumulative reporting and one request-based option for

all other types of relief. The RPC unanimously accepted the subcommittee's report and forwarded the recommendations to the Secretary.

7. Prepayment of Royalties Under Section 7 of RSFA

Due to the controversy surrounding the related rulemaking concerning accounting and auditing relief for marginal properties, MRM asked the same RPC subcommittee to provide recommendations on prepayment relief. The subcommittee met in January, March, and May 2001 to address the issues.

The subcommittee worked to identify all potential situations that might be encountered involving prepayment of royalties. Industry representatives assisted the subcommittee by providing detailed information, including calculating the reserves of oil and gas field reservoirs. The subcommittee is further addressing issues such as valuation, processing fees, retroactive unitization or communitization agreements, and decline rates.

8. Electronic Reporting

The MMS published a final rule amending its regulations to require reporters to submit selected royalty and production reports electronically. The final rule was published on July 15, 1999, with an effective date of November 1, 1999.

9. Solid Mineral Reporting Requirements

The MMS published a final rule on August 30, 2001, with an effective date of October 1, 2001, to revise its solid mineral reporting regulations. The regulations replace several existing information collection requirements and decrease the reporting burden for solid mineral reporters. The regulations promote electronic or Internet-based reporting for the convenience of industry and the Federal Government. The revised regulations further improve MMS ability to verify correct payment of royalty obligations under applicable laws, regulations, and lease terms.

H. Civil Penalties

Section 109 of FOGDRA provides for civil penalties to ensure the prompt collection of all oil and gas revenues due from Federal and American Indian mineral leasing. Civil penalties were first assessed in FY 1985.

There were 64 civil penalty cases open at the beginning of FY 2000 from prior years. The MRM opened an additional 43 cases during the course of the year. Personnel with the MRM Office of Enforcement closed 39 cases in FY 2000, resulting in a balance of 68 cases open at the beginning of FY 2001. The MRM continues efforts to resolve these actions.

I. Training Programs

The MRM continued a series of training programs in FY 2000 for MRM employees and constituents. The training is designed to increase awareness of regulatory and procedural requirements and to familiarize participants with issues affecting the minerals industry.

1. Payor Training

The MRM continued to provide 2-day training sessions to update industry payors concerning royalty reporting requirements, royalty payment requirements, automated and manual exception processing programs, and product valuation for oil, gas, and geothermal resources. The MRM conducted four payor training seminars in FY 2000 attended by 333 participants representing 195 firms.

2. Operator Training

The MRM continued PAAS training for oil and gas industry operators to explain Federal regulations, policy changes, and production reporting requirements. The MRM conducted four operator training sessions during the year attended by 245 participants representing 147 firms.

3. American Indian Gas Valuation Training

The MRM conducted 18 American Indian gas valuation training sessions in FY 2000 attended by approximately 350 participants representing industry, Tribes, and the MMS audit staff. The 1-day training session provided instruction for payors and auditors addressing royalty reporting requirements, royalty payment requirements, and product valuation of gas under the new American Indian gas valuation regulations which became effective January 1, 2000. The session highlighted issues regarding valuation of gas produced from index and nonindex zones, new options for dual accounting, and changes to transportation and processing allowance calculations and reporting.

4. Rocky Mountain Mineral Law Foundation Special Institute

The MMS and the Rocky Mountain Mineral Law Foundation co-sponsored a Special Institute in Houston, Texas, from April 17-19, 2000, addressing Federal and American Indian oil and gas royalty valuation and management. Presentations by MRM personnel included the American Indian gas valuation rule and the proposed Federal oil valuation rule.

5. Workforce Training

The MRM established a Training Advisory Committee in FY 1995 to satisfy the following objectives:

- Analyze the training requirements of the general workforce to meet strategic business goals;
- Outline both short- and long-term training plans; and
- Develop in-house courses presented by current employees and commercial vendors.

The MRM conducted a number of training programs in FY 2000 attended by over 300 employees. Technical courses included:

- Unitization and communitization agreements;
- Locating reference and production data through MRM automated systems;
- Life of a lease;
- Overview of laws and regulations affecting MMS;
- Orientation to the mineral functions of BIA and BLM;
- American Indian royalties;
- Auditing standards;
- Introduction to Federal onshore oil and gas valuation and audit;
- Introduction to Federal offshore oil and gas valuation and audit;
- Outlook Web access training; and
- Mobile (laptop) user training.

The Accountant Occupational Training Plan was implemented in FY 1997. The training consists of accounting, communication, writing, and technical mineral courses for accountants and auditors. The training is provided to accountants in field offices and audit residencies in addition to Headquarters staff in Denver. Most of the MRM audit staff is located in cities where many of the top royalty payors maintain accounting centers.

The Training Advisory Committee completed development of the Administrative Staff Series Occupational Training Plan (Administrative Training Plan) in FY 1998 which was approved by the MRM Associate Director on October 1, 1998. The Administrative Training Plan is designed to provide guidelines for common training requirements and to encourage employees in a variety of administrative staff series to complete a minimum of 80 hours of training every 2 years to improve personal performance.

II. MINERAL REVENUE COLLECTIONS AND DISBURSEMENTS

A. Mineral Revenue Collections

The Department collected over \$5.9 billion in mineral rents, bonuses, and royalties in FY 2000 from 80,735 Federal and American Indian leases. This represents an increase of \$1.6 billion, or 38.4 percent, from \$4.3 billion in collections in FY 1999 (table 1). The increase was primarily due to significantly higher oil and gas prices in FY 2000. American Indian revenues addressed in this report are collected and processed by MMS from leases on Tribal lands and allotments or collected by the American Indian community and reviewed by MMS for accuracy.

Offshore oil and gas royalties rose 59.8 percent, or nearly \$1.4 billion, in FY 2000 (table 1). Domestic oil prices are materially influenced by the international market. The Organization of Petroleum Exporting Countries cut production of crude oil in the last year to stimulate prices. The Department of Energy (DOE) reports that oil prices rose in September 2000 to their highest level since the Gulf War nearly a decade earlier. The Federal Government released 30 million barrels of oil from the Strategic Petroleum Reserve in September 2000 to alleviate low domestic inventories. As a result, the DOE reports that spot prices fell \$3 per barrel but were expected to remain near \$30 per barrel in the balance of the calendar year.

Domestic gas prices are governed by competition in U.S. and Canadian energy markets because gas, unlike oil, is not easily transported among countries outside North America. The DOE reports that mild winter weather and low prices in recent years reduced gas exploration, development, and storage inventories. Working gas inventories on October 1, 2000, were 9 percent below comparable levels 1 year ago. Demand accelerated due to the surging U.S. economy and a return to colder, more normal winter weather patterns. The DOE advises that increased demand and lower supplies caused average spot prices for gas to nearly double from September 1999 to September 2000.

Federal onshore royalties jumped 53.1 percent and American Indian royalties rose 44.3 percent in FY 2000 (table 1). Oil and gas royalties were up for the same reasons as revenues on offshore lands. Coal royalties rose due to higher production; however, coal prices continued a sustained decline that began nearly 2 decades ago. The DOE advises that the electricity sector consumes over 90 percent of all coal used in the United States. Coal prices to the electricity sector continued to fall in FY 2000 as a result of gains in mining productivity, averaging 6.7 percent a year since 1978.

Offshore bonuses and rents fell 42.7 percent, from \$793.8 million in FY 1999 to \$454.6 million in FY 2000 (table 1). Revenues from competitive oil and gas lease sales were higher in FY 1997-98 due, in part, to higher oil and gas prices during that period, advances in three-dimensional seismology, innovations in horizontal drilling, improved underwater techniques, recent subsalt discoveries in the Gulf of Mexico, and deep water royalty relief provisions recently enacted by Congress. Offshore bonus receipts reached a 13-year high in FY 1998 with over 6.3 million acres leased. Bonus receipts fell in both FY 1999 and FY 2000 as record levels of offshore leasing in the Central and Western Gulf of Mexico during the period in FY 1997-98 depleted the available inventory of unleased tracts.

Federal onshore bonuses and rents increased \$77 million in FY 2000 (table 1). The increase was attributed to a particularly large sale in the National Petroleum Reserve in Alaska.

Collections from rents on American Indian leases totaled \$892,000 in FY 2000 (table 1). American Indian rent collections have approached approximately \$1 million in recent years.

Table 1. Comparison of mineral revenue collections, FY 1999-2000
(in thousands)

	<u>FY 1999</u>	<u>FY 2000</u>	<u>Difference</u>	<u>Percent</u>
Offshore Federal Lands				
Royalties	\$2,332,719	\$3,727,064	\$1,394,345	59.8
Bonuses and Rents	<u>793,792</u>	<u>454,608</u>	<u>(339,184)</u>	(42.7)
Subtotal	\$3,126,511	\$4,181,672	\$1,055,161	33.7
 Onshore Federal Lands				
Royalties	\$ 841,038	\$1,288,013	\$ 446,975	53.1
Bonuses and Rents	<u>165,060</u>	<u>242,080</u>	<u>77,020</u>	46.7
Subtotal	\$1,006,098	\$1,530,093	\$ 523,995	52.1
 American Indian Lands				
Royalties	\$ 162,690	\$ 234,754	\$ 72,064	44.3
Rents	<u>803</u>	<u>892</u>	<u>89</u>	11.1
Subtotal	\$ 163,493	\$ 235,646	\$ 72,153	44.1
 TOTAL	\$4,296,102	\$5,947,411	\$1,651,309	38.4
 Total Royalties	\$3,336,447	\$5,249,831	\$1,913,384	57.4
 Total Bonuses and Rents . .	\$ 959,655	\$ 697,580	\$ (262,075)	(27.3)

The Federal Government and the State of Alaska have been engaged in a dispute concerning the boundaries of Federal and State lands in the offshore area of the Beaufort Sea. Revenues from the disputed area were placed into an escrow account beginning in 1979. The U.S. Supreme Court appointed a Special Master to review the matter. The review was conducted over a 10-year period. A final ruling was issued in FY 2000. The State of Alaska received a payment of principal and interest totaling \$5,470,957. The Federal Government received \$441,657,000 in principal and \$1,351,527,000 in interest (table 2.) Half of the Federal share of principal and interest was directed to the General Fund of the U.S. Department of the Treasury (Treasury). The remaining half was directed to the Environmental Improvement and Restoration Fund.

Bidders in offshore competitive lease sales must deposit one-fifth of the bonus payment into an escrow account pending award of the lease. The one-fifth deposit and accrued interest are returned to unsuccessful bidders. Interest in the escrow account from accepted bids totaled \$722,000 in FY 2000 (table 2). Settlement payments to offshore States under the provisions of the OCSLA Amendments of 1978 totaled \$65 million (tables 2 and 5).

**Table 2. Mineral revenue collections, escrow release, and settlement payments, FY 2000
(in thousands)**

	<u>Royalties</u>	<u>Bonuses & Rents</u>	<u>Other Revenues</u>	<u>Total</u>
Collections				
Offshore Federal Lands . .	\$3,727,064	\$ 454,608	\$ ---	\$4,181,672
Onshore Federal Lands . .	1,288,013	242,080	---	1,530,093
American Indian Lands . .	<u>234,754</u>	<u>892</u>	<u>---</u>	<u>235,646</u>
Subtotal	\$5,249,831	\$ 697,580	\$ ---	\$5,947,411
Offshore Payments				
Alaska Escrow Release . .	\$ ---	\$ ---	\$ 441,657	\$ 441,657
Interest on Alaska Escrow	—	—	1,351,527	1,351,527
1/5 Bonus Escrow	—	—	722	722
Settlement Payments . . .	<u>---</u>	<u>---</u>	<u>65,000</u>	<u>65,000</u>
Subtotal	\$ ---	\$ ---	\$1,858,906	\$1,858,906
TOTAL	\$5,249,831	\$ 697,580	\$1,858,906	\$7,806,317

B. Mineral Revenue Disbursements

Revenues are generally reported to MRM on the last business day of the month. The MRM generally disburses revenues in the month following receipt. Collection and disbursement totals for a fiscal year will vary because revenue collected in September, the last month in a fiscal year, will not be disbursed until October, the first month of the next fiscal year.

The Department disbursed over \$7.8 billion from mineral leasing in FY 2000 to the States, to special-purpose accounts administered by Federal agencies, and to the General Fund of the Treasury (table 3). The BIA distributed American Indian lease revenues to the appropriate Tribes and individual American Indian mineral owners. Formulas for these disbursements are governed by legislation and regulations.

Table 3. Disbursement of mineral lease revenues, FY 2000
(in thousands)

Offshore Federal Revenues

National Historic Preservation Fund	\$ 150,000	
Land and Water Conservation Fund	892,021	
Environmental Improvement and Restoration Fund . .	896,592	
State Shares (7 States)	108,469	
U.S. Treasury: General Fund	<u>3,993,496</u>	
Subtotal		\$6,040,578

Onshore Federal Revenues

Reclamation Fund	\$ 537,710	
State Shares (35 States)	735,077	
U.S. Treasury: General Fund	<u>257,306</u>	
Subtotal		1,530,093

American Indian Revenues

Tribes and individual American Indian mineral owners		<u>235,646</u>
---	--	----------------

TOTAL		\$7,806,317
------------------------	--	--------------------

States share in revenues collected from Federal mineral leases within their respective boundaries or from lands within 3 miles of the seaward boundary of their coasts. Over \$843.5 million in royalties, rents, bonuses, and settlement payments were distributed to the States from offshore and onshore mineral leasing in FY 2000 (tables 3, 4, and 5).

Recurring annual payments to the National Historic Preservation Fund (NHPF), the Land and Water Conservation Fund, and the Reclamation Fund amounted to nearly \$1.6 billion in FY 2000. The annual funding authorization of \$150 million for the NHPF expired at the end of FY 1997. Legislation authorizing resumption of the \$150 million annual funding was passed in FY 2000. A one-time payment of \$896.6 million was made to the Environmental Improvement and Restoration Fund in FY 2000 (table 3).

The General Fund of the Treasury received nearly \$4.3 billion. American Indian revenues directed to Tribal governments and individual American Indian mineral owners totaled over \$235.6 million (table 3).

**Table 4. Distribution of onshore mineral revenues
to 35 States by the Minerals Management Service
and the Bureau of Land Management, FY 2000
(in thousands)**

Alabama	\$ 661	Nebraska	\$ 14
Alaska	44,935	Nevada	2,667
Arizona	91	New Mexico	229,732
Arkansas	1,130	North Carolina	*---
California	20,418	North Dakota	4,233
Colorado	42,320	Ohio	141
Florida	5 Oklahoma 1,748	
Georgia	*---	Oregon	48
Idaho	2,388	Pennsylvania	20
Illinois	112	South Dakota	546
Kansas	1,233 Tennessee 7	
Kentucky	44	Texas	718
Louisiana	1,025	Utah	36,625
Michigan	536	Virginia	102
Minnesota	12	Washington	1,698
Mississippi	661	West Virginia	289
Missouri	868	Wyoming	319,649
Montana	20,401		
		TOTAL	\$735,077

* State revenue shares under \$500 disbursed in FY 2000 are not included in this table.

Section 8(g) of the OCSLA Amendments of 1978 provided that the States were to receive a “fair and equitable” division of revenues generated from the leasing of lands within 3 miles of the seaward boundary of a coastal State that contains one or more oil and gas pools or fields underlying both the OCS and lands subject to the jurisdiction of the State. The States and Federal Government, however, could not agree on the meaning of the term “fair and equitable.” Revenues generated in the 3-mile boundary were subsequently placed into an escrow fund beginning in August 1979. Revenues from the Beaufort Sea in Alaska were placed in a second escrow fund under section 7 beginning in December 1979. Congress resolved the dispute over the meaning of “fair and equitable” in the OCSLA Amendments of 1985, Public Law 99-272. The law provided for the following distribution of revenues to the States under section 8(g):

- Escrow funds disbursed during the period FY 1986-87;
- A series of annual settlement payments to be disbursed to the States over a 15-year period from FY 1987 through FY 2001; and
- Recurring annual disbursements of 27 percent of royalty, rent, and bonus revenues received from each affected State's 8(g) zone.

Congress passed a second law, Public Law 100-202, permitting distribution of section 7 escrow funds to Alaska in FY 1988. Seven States received nearly \$108.5 million in FY 2000 under the provisions of the two acts, including \$43.5 million in OCS royalties, rents, and bonuses, and \$65 million in settlement payments (table 5).

Table 5. Distribution of offshore royalties, rents, bonuses, and settlement payments to seven States, FY 2000
(in thousands)

	Royalties, Rents, & Bonuses	Settlement Payments	Total
Alabama	\$12,966	\$ 700	\$ 13,666
Alaska	269	13,400	13,669
California	2,995	28,900	31,895
Florida	*---	---	*---
Louisiana	14,281	8,400	22,681
Mississippi	372	200	572
Texas	<u>12,586</u>	<u>13,400</u>	<u>25,986</u>
TOTAL	\$43,469	\$65,000	\$108,469

* State revenue shares under \$500 disbursed in FY 2000 are not included in this table.

III. MRM UNDERPAYMENT DETECTION PROGRAMS

The accurate determination and collection of mineral revenues require both voluntary compliance by payors and sophisticated MRM audit and exception identification programs designed to detect the underpayment of revenues. Collections from audits, refund denials, and exception programs rose 58.9 percent, from \$186.4 million in FY 1999 to \$296.1 million in FY 2000. The increase is primarily attributed to a significant jump in settlement payments in FY 2000 as a result of collections from MRM audit activities and an increase in collections from the correction of discrepancies, or exceptions, between sales volumes reported to AFS by payors and sales/transfer volumes reported to PAAS by lease and agreement operators during the year.

Cumulative collections from the inception of the first of the underpayment detection programs in October 1981 through the end of FY 2000 totaled nearly \$2.6 billion.

A. Determination of Royalties Owed to the Federal Government

Multiple lease ownership, the nature of royalty calculations, and erroneous payor reporting contribute to difficulties in determining the amount of royalties owed to the Federal Government.

1. Multiple Lease Ownership

The number of producing and nonproducing oil and gas leases on the MRM database remained relatively stable, from 79,222 at the end of FY 1999 to 79,606 at the end of FY 2000 (table 6). The number of producing oil and gas leases on the AFS database also remained stable, from 25,724 at the end of FY 1999 to 25,918 at the end of FY 2000 (table 6).

Ownership of many oil and gas leases is often divided and subdivided, resulting in multiple payors for a single lease. The average number of active oil and gas payors reporting each month to AFS remained relatively stable at approximately 2,250 payors during the period FY 1999-2000 (table 6).

The average number of oil and gas royalty lines processed each month fell from 262,734 lines per month in FY 1999 to 253,690 lines per month in FY 2000 (table 6). The decline reflects more efficient reporting practices by oil and gas payors.

Revenue sources and selling arrangements establish the source of the product sold and the buyer or seller of the product. Both the number of active revenue sources and the number of active selling arrangements experienced a moderate increase during the period FY 1998-99 as a result of oil and gas competitive lease sales in recent years. Active revenue sources totaled 59,910 in FY 1999 and 60,824 in FY 2000. Active selling arrangements equaled 155,546 in FY 1999 and 163,109 in FY 2000 (table 6).

The MRM must adjust payor database records each time there is a change in payor responsibility. The MRM averaged 4,184 adjustments per month in FY 1999 and 4,751 adjustments per month in FY 2000, reflecting the fluid nature of the energy industry (table 6).

Table 6. Factors associated with multiple lease ownership, FY 1999-2000

	<u>FY 1999</u>	<u>FY 2000</u>
Oil and Gas Leases at End of Fiscal Year		
Producing Leases	25,724	25,918
Nonproducing Leases	<u>53,498</u>	<u>53,688</u>
Total	79,222	79,606
Active Oil and Gas Payors Each Month	2,224	2,263
Average Oil and Gas Lines		
Processed Each Month	262,734	253,690
Active Revenue Sources	59,910	60,824
Active Selling Arrangements	155,546	163,109
Average Payor and Lease Database		
Changes Each Month	4,184	4,751

2. Erroneous Reporting

Industry complexities contribute to difficulties associated with royalty and account status determination. The AFS edits industry-reported information and rejects certain incorrect data. The MMS does not process rejected information until the mistake is corrected. Employees with MRM contact the payor to correct errors whenever possible.

An aggressive MRM training program with industry representatives, in conjunction with individual assistance provided to industry reporters, has resulted in a relatively low AFS error rate. The annual average AFS error rate equaled 4.9 percent in FY 1999 and 3.7 percent in FY 2000.

3. MRM Valuation Guidance

The MRM continued to provide valuation guidance for fluid and solid minerals to Federal, State, American Indian, and industry representatives in FY 1999 and FY 2000. The MRM reviewed and approved 152 transportation and processing allowance requests in FY 1999 and completed 263 formal valuation guidance documents, including technical opinions and assistance on compliance issues. The MRM reviewed and approved another 101 transportation and processing allowance requests in FY 2000 and completed 73 formal valuation guidance documents during the year. Some of the more significant valuation issues addressed during the period include:

- Valuation of oil sold under the MMS small refiner and pilot RIK programs;
- Various requests under the provisions of the new Federal oil valuation rule;
- Factors affecting affiliation and control to determine whether transactions are at arm's length where ownership is between 10 and 50 percent;
- Exceptions to the regulatory limitations for transportation and processing allowances claimed against royalties due;
- Factors to determine whether costs are related to gathering and transportation;
- Geothermal valuation regarding buyback of electricity and netback calculations;
- Extension of extraordinary processing cost allowances for carbon dioxide, methane, and sulfur plants in Wyoming;
- Valuation of carbon dioxide and associated allowance issues;
- Valuation of carbon dioxide when gas is produced during enhanced oil recovery;
- Valuation guidance involving the arm's-length nature of gas sales;
- Valuation and reporting guidance for lease gas use;
- Valuation of oil delivered to the Strategic Petroleum Reserve;
- Appeals involving oil valuation in California;
- Various coalbed methane issues in the San Juan Basin, Utah, and Wyoming;
- Clarification of the "four corners" boundary addressing the new Federal oil valuation rule;
- The use of FERC tariffs in lieu of a lessee's actual costs for computing offshore oil transportation allowances; and

- Valuation guidance on a proposed tendering program in the Rocky Mountain Region.

B. Audit Initiatives and Programs

Effective audit programs are essential to the proper identification and collection of royalties. The MRM continued aggressive audit programs to pursue unpaid and underpaid royalties in FY 1999 and FY 2000.

1. Contract Settlements

Price volatility, occurring since the early 1980's, caused many gas purchasers and a few coal purchasers to negotiate settlements of existing sales contracts with mineral producers. The settlements may include price reductions for sales, changes in quantity commitments and other contract terms, or contract termination.

Producers often receive cash payments from the purchasers as an incentive to settle the contract. The settlement payments raise complex valuation issues. Audit determinations are necessary to verify that Federal and American Indian lease holders accurately calculate and pay royalties attendant to revenues from contract settlements.

The MMS has identified over 3,500 contract settlements totaling nearly \$18 billion. Approximately two-thirds of the settlements involve Federal and American Indian lands and require audit. The MMS began auditing these settlement contracts in FY 1993. The audits are scheduled for completion by the end of FY 2001, although completion may be affected by recent litigation.

2. Crude Oil Pricing

In March 1996, a qui tam lawsuit under the False Claims Act alleged underpayments by a number of major oil companies, mainly in the Gulf of Mexico. The United States intervened against many of the companies involved with Federal and American Indian mineral leasing. All of the allegations were resolved by settlement. The United States collected nearly \$500 million from 18 oil producers.

In May 1996, an interagency team which included MMS representatives completed a report specifically addressing California crude oil pricing. The report concluded that, while companies effectively received payments for oil production at higher than posted prices for crude oil, the companies generally made royalty payments based only upon the posted prices. Under the gross proceeds valuation concept, companies should pay royalties on the total amount received. The team's report concluded that MMS should institute a collection effort using underpayment estimates based on premiums received in arm's-length sales contracts in the same areas, and that MMS should concentrate its collection efforts on the relatively few companies that produce at least 90 percent of the Federal

crude oil in California. The team also recommended that MMS oil royalty valuation regulations be revised to consider alternatives to reliance on posted prices.

As a result of the team's recommendations, MMS initiated detailed audits and reviews of the top 20 crude oil royalty payors in California in FY 1996. The MMS completed most of this work in FY 1997. The MMS further expanded audit coverage of this issue to include crude oil royalty payors outside California and gas sales in all geographical areas. The findings of most of the audits and reviews were settled along with the settlements of the False Claims Act suits. The exception was Oxy U.S.A. Inc., which recently prevailed before the Tenth Circuit Court of Appeals (*Oxy U.S.A. Inc. v. Babbitt*, 268 F.3d 1001). The Court held that the statute of limitations barred the claims of the United States with respect to these matters (10th Cir. 2001).

The MMS has been engaged since 1995 in an extensive effort to revise the previous Federal oil royalty valuation rules. The MMS remains committed to assuring that royalties on Federal oil production are based on a fair market value and to otherwise simplify and improve the rule. The previous rules substantially relied on posted prices, which often resulted in an understated market value for royalty valuation purposes.

The MMS published the final version of the new rule in the Federal Register on March 15, 2000. From the beginning of the rulemaking process, MMS requested public comment in eight separate Federal Register Notices and held 20 public meetings/workshops in five States and the District of Columbia. The MMS also hired five consultants, talked to numerous other industry experts, worked closely with various states, and worked with Members of Congress in order to finalize the rule. Between May 2000 and February 2001, MMS provided training on the new rule in various locations around the country for industry as well as State and Tribal compliance personnel. As a result of these efforts, MMS received a positive report on this rulemaking from the General Accounting Office.

The new regulations address the following issues:

- Clarify that MMS will issue binding value determinations.
- Change the “affiliate” definition because of a recent judicial decision.
- Advise that MMS will not “second-guess” sales value when made under arm’s-length contracts.
- Make available optional ways for lessees to value their product if they sell at arm’s length following one or more arm’s-length exchanges or affiliate transfers.
- Change the way oil is valued if sold under other than an arm’s-length contract.
- Change the actual transportation cost calculations.
- Provide a 3-month grace period for companies to make interest-free royalty adjustments if resulting from system changes needed to comply with the rule.

3. Audit Collections and Refund Denials

Collections through the MRM audit programs for additional royalties, late-payment interest assessments, and liquidated damages increased from \$88.4 million in FY 1999 to \$170.7 million in FY 2000 (table 7). Collections during the period FY 1994-95 were the highest in MMS audit history. Revenues fell in FY 1996-97 as a result of fewer settlements of outstanding audit issues, recent litigation, and difficulties associated with acquiring royalty records. Collections were up again in FY 1999-2000 as a result of additional settlement payments. No refund requests were denied during the period FY 1999-2000 (table 7).

The MRM worked with 7 Tribes and 10 States during the period FY 1999-2000 that have funded cooperative agreements or funded delegations of authority with the Department. Funding for the agreements and the delegations is provided under the authorization in FOGPMA. Royalties and other charges collected by State and Tribal auditors rose from \$26.7 million in FY 1999 to \$48.2 million in FY 2000 (tables 7 and 8). The increase in revenues is again attributed to additional settlements of outstanding audit issues. No refund requests were denied during the period FY 1999-2000 (table 7).

**Table 7. Additional royalties, interest, and damages
collected, FY 1999-2000
(in thousands)**

	<u>FY 1999</u>	<u>FY 2000</u>
MRM Audits		
Royalties Collected	\$ 82,206	\$102,466
Interest and Liquidated Damages	<u>6,236</u>	<u>68,249</u>
Total Collections	\$ 88,442	\$170,715
 Refund Denials	 \$ -0-	 \$ -0-
 State and Tribal Audits		
Royalties Collected	\$ 17,401	\$ 29,194
Interest and Liquidated Damages	<u>9,317</u>	<u>19,027</u>
Total Collections	\$ 26,718	\$ 48,221
 Refund Denials	 \$ -0-	 \$ -0-
 Combined Collections and Refund Denials .	 \$115,160	 \$218,936

Collections from combined MRM, State, and Tribal compliance activities rose from \$115.2 million in FY 1999 to \$218.9 million in FY 2000 (table 7). Cumulative revenues from the inception of the audit program on October 1, 1981, through September 30, 2000, totaled over \$1.8 billion. Refund denials for the same period equaled an additional \$144.7 million.

4. State and Tribal Audits

The MRM maintained cooperative audit agreements that provided audit funding during the period FY 1999-2000 to 7 Tribes and 10 States under the authority provided in sections 202 and 205 of FOGRMA. Cooperative agreements under section 202 were in effect at the end of FY 2000 with the following Tribes:

- Blackfeet
- Jicarilla Apache
- Navajo Nation
- Shoshone and Arapaho
- Southern Ute
- Northern Ute
- Ute Mountain Ute

Cooperative agreements under section 205 were in effect at the end of FY 2000 with the following States:

- California
- Colorado
- Louisiana
- Montana
- New Mexico
- North Dakota
- Oklahoma
- Texas
- Utah
- Wyoming

The cooperative agreements with the Navajo Nation, California, Colorado, Montana, New Mexico, North Dakota, Utah, and Wyoming include audits of geothermal steam, coal, and other solid mineral leases, including sodium, potassium, and phosphate.

The cooperative agreements with California, Louisiana, and Texas include the audit of royalties from leases issued under section 8(g) of the OCSLA Amendments of 1985.

**Table 8. Collections resulting from
cooperative and delegated audits, FY 1999-2000
(in thousands)**

	<u>FY 1999</u>	<u>FY 2000</u>
Section 202 Collections		
Blackfeet	\$ 164	\$ 13
Jicarilla Apache	---	---
Navajo Nation	5,568	446
Shoshone and Arapaho	647	4,117
Southern Ute	5,878	678
Northern Ute	20	707
Ute Mountain Ute	7	32
Section 205 Collections		
California	4,845	2,890
Colorado	2,263	3,513
Louisiana	80	19,711
Montana	666	715
New Mexico	5,474	7,641
North Dakota	192	783
Oklahoma	118	368
Texas	33	353
Utah	377	1,411
Wyoming	<u>386</u>	<u>4,843</u>
TOTAL	\$26,718	\$48,221

State and Tribal auditors perform lease and company audits for leases located within the respective State and Tribal boundaries. Funded and unfunded State and Tribal audit efforts generated additional royalties, interest, and liquidated damages totaling \$26.7 million in FY 1999 and \$48.2 million in FY 2000 (tables 7 and 8). The Jicarilla Tribe chooses not to reveal its collection amounts from the section 202 cooperative agreement.

C. Exception Identification Programs

The MRM continued a series of automated and manual programs designed to assess and collect revenues for late payments, failure to report, erroneous reports, improper recoupments, and improper adjustments submitted by payors and operators. Revenue collections rose 8.4 percent, from \$71.2 million in FY 1999 to \$77.2 million in FY 2000 (table 9).

Collections of interest, liquidated damages, improper recoupments, and royalties from the inception of the different programs through the end of FY 2000 totaled approximately \$599.5 million.

1. AFS/PAAS Exceptions

The MRM continued to correct discrepancies, or exceptions, between sales volumes reported to AFS by payors and sales/transfer volumes reported to PAAS by lease and agreement operators in FY 2000. Personnel in the MRM Compliance Verification Division processed 24,903 exceptions during FY 1999, including 23,091 exceptions that required written correspondence with operators. Personnel resolved 23,368 exceptions requiring written correspondence in FY 1999 from current and prior year periods. Personnel processed 21,832 exceptions during FY 2000, including 19,266 exceptions that required written correspondence with operators. Personnel resolved 23,728 exceptions requiring written correspondence in FY 2000 from current and prior year periods.

Revenues from comparisons of sales reported to AFS and corresponding sales/transfer volumes reported to PAAS rose \$6.5 million, from \$56.2 million in FY 1999 to \$62.7 million in FY 2000 (table 9). The increase was due to automation, continued streamlining of work processes, and the application of additional resources to reduce a backlog of outstanding exceptions from prior years.

Royalty collections from the AFS/PAAS exceptions program totaled over \$355.5 million from the origin of the program in FY 1985 through the end of FY 2000.

2. AFS Exceptions

The AFS exceptions identification program promotes accurate and timely reporting and payment. The program detects:

- Late payment of royalties, rents, and bills;
- Insufficient estimated royalty payments; and
- Discrepancies between payments and financial lease terms for rents, bonuses, advance royalties, and minimum royalties.

The MRM issues bills for interest when payments are received after the due dates and when estimated royalty payments are insufficient compared to actual royalties paid at a later date. Interest collections totaled \$9.4 million in FY 1999 and \$10.2 million in FY 2000 (table 9). These amounts represent net interest payments to the Federal Government after deductions for credits owed to payors for overpayment of Federal oil and gas obligations. The MRM has collected \$201 million in interest from the beginning of the program in FY 1985 through the end of FY 2000.

The MRM first issued bills for discrepancies associated with financial lease terms in May 1992. The effort generated \$2.7 million in FY 1999 and \$2.6 million in FY 2000 (table 9). Collections since the inception of the program total \$18.4 million.

3. Allowance Exceptions

All transportation and processing allowances deducted from royalties are subject to MRM review. The MRM has continued to improve efforts to monitor these deductions from the inception of the first automated program in FY 1992.

- **Automated Allowance Tracking System.** The Automated Allowance Tracking System reviewed oil and gas transportation and gas processing allowance forms filed by payors. The MMS Director placed a moratorium on filing violations in the first quarter of FY 1994. The MMS amended allowance regulations effective March 1, 1996. The changes eliminated filing requirements for allowance forms and associated sanctions for Federal oil, gas, and coal leases only. There will subsequently be no further collections from the Automated Allowance Tracking System.
- **Allowance Limit Exception Processing.** The MRM currently employs a sophisticated Allowance Limit Exception Processing (ALEP) program to analyze deductions. The MRM implemented ALEP in the fourth quarter of FY 1994 to detect payors who exceed regulatory allowance limits. The automated program reviews royalty reports submitted by payors to determine compliance with regulatory allowance limits. Bills are issued when allowances exceed 99 percent of royalties due, and notification letters are issued when allowances are greater than the regulatory allowance limit but are less than 99 percent of royalties due. Each month ALEP reviews new royalty report lines to determine whether the payor has corrected identified exceptions. If the payor submits a corrected royalty report to resolve the problem, a credit is automatically generated and the exception is closed. If the payor attempted to resolve the problem but is still not in compliance, ALEP generates a credit for the original bill and issues a new bill for any outstanding dollar amount.

The program detected millions of dollars of allowance limit violations during the period March 1988 through FY 1997. The MRM developed a procedure to monitor collections resulting from exceptions detected by ALEP. The MRM collected \$101,000 in FY 1999 and \$379,000 in FY 2000 from ALEP (table 9).

The MRM has collected nearly \$6.8 million from the inception of the first of the allowance exception programs in FY 1992 through the end of FY 2000.

4. Liquidated Damage Assessments

The MRM formerly issued bills for liquidated damage assessments when royalty or production reports were received after the due date or were submitted with errors. The assessments were in addition to interest on the amount paid late.

Effective October 1, 1995, MRM changed its assessment policy for late and incorrect reporting. Under the new policy, MRM no longer charges reporters for filing late royalty or production reports. Although assessments for late reporting will cease, MRM will continue to assess interest when payments are late. The MRM is developing a revised assessment program to address reporters who chronically submit erroneous data.

There were no collections from late payments and erroneous royalty reports through AFS in either FY 1999 nor FY 2000 (table 9). Collections from the beginning of the program in FY 1987 through the end of FY 2000 totaled nearly \$2.6 million.

There were no collections from operators for late payment or erroneous production reports through PAAS during the period FY 1999-2000 (table 9). Liquidated damage collections totaled over \$1.8 million from the inception of the program in FY 1989 through the end of FY 2000.

5. OCS Recoupments

Section 10 of OCSLA required a payor to file a request with MRM for a recoupment of an overpayment within 2 years of the original payment. The MRM was required to provide a 30-day notification to Congress before approving the recoupment. Payors who took a recoupment without authorization were contacted by MRM and were required to explain the recoupment within 30 days. Failure to respond to the notification or to justify the recoupment resulted in an assessment to recover the unauthorized amount.

Under the provisions of RSFA, payors will no longer be required to file a request for a recoupment with MRM. This provision will apply to payment receipt dates after August 12, 1996.

Collections totaled \$8,000 in FY 1999 and \$10,000 in FY 2000 from bills issued through August 12, 1996 (table 9). Collections from improper recoupments totaled over \$2.4 million from the origin of the program in January 1992 through FY 2000.

6. American Indian Recoupments

Payors who take a recoupment of an overpayment on an American Indian lease cannot recoup more than 50 percent of the monthly revenue payment on an individual American Indian-owned mineral lease or 100 percent of the monthly revenue payment on a Tribal lease. Collections from improper American Indian recoupments rose from \$140,000 in FY 1999 to \$553,000 in FY 2000 (table 9). The increase was primarily associated with higher oil and gas prices and increased activity associated with American Indian leases.

Collections from American Indian recoupments totaled \$2.4 million from the beginning of the program in FY 1992 through FY 2000.

7. Improper Adjustments

The MRM compares every credit line submitted by a payor with previous payment lines. Payors must have valid payments in order to take a credit adjustment. If payors take a credit that doesn't match previous payments, the adjustment is not valid and must be repaid. Collections from improper adjustments fell from nearly \$2.4 million in FY 1999 to \$454,000 in FY 2000 (table 9). The higher amount in FY 1999 was attributed to incorrect reporting on a number of Federal offshore leases. The decline in FY 2000 is attributed to more efficient and accurate reporting practices by oil and gas payors. Collections from improper adjustments totaled nearly \$7.2 million from the inception of the program in FY 1993 through FY 2000.

The improper adjustments underpayment detection program was eliminated during FY 2000. Resources committed to the program have been directed to other underpayment detection programs with a higher potential for revenue. Improper adjustments will continue to be identified, in part, through the AFS/PAAS exceptions program addressed earlier in this section.

8. Royalty Rate Monitoring

The MRM calculates a royalty rate from monthly sales information provided by payors. The calculated royalty rate is compared with the royalty rate in the lease. If the calculated rate from the payor is lower than the lease rate, MRM notifies the payor of the error and allows 90 days to correct the mistake. The MRM orders payors to pay additional royalties based on the higher lease rate if the payor does not correct the error. The MRM collected \$212,000 in FY 1999 and \$281,000 in FY 2000 from this effort (table 9). Most of the collections were attributed to incorrect reporting on Federal offshore leases.

Collections from the inception of royalty rate monitoring in FY 1995 through the end of FY 2000 totaled nearly \$1.4 million.

**Table 9. Revenues collected from exception identification
programs, FY 1999-2000
(in thousands)**

	<u>FY 1999</u>	<u>FY 2000</u>
AFS/PAAS Exceptions	\$56,222	\$62,734
AFS Exceptions		
Interest Exceptions from Late Payments and Insufficient Estimates	\$ 9,442	\$ 10,223
Lease Term Exceptions	<u>2,736</u>	<u>2,578</u>
Subtotal	\$12,178	\$12,801
Allowance Exceptions	\$ 101	\$ 379
Liquidated Damage Assessments		
Payor Royalty Reports from AFS	\$ ---	\$ ---
Operator Production Reports from PAAS ..	<u>---</u>	<u>---</u>
Subtotal	\$ ---	\$ ---
OCS Recoupments	\$ 8	\$ 10
American Indian Recoupments	\$ 140	\$ 553
Improper Adjustments	\$ 2,363	\$ 454
Royalty Rate Monitoring	\$ 212	\$ 281
TOTAL	\$71,224	\$77,212

D. Delinquent Accounts Receivable

A receivable is established in AFS whenever MRM issues a bill. The office originating the bill submits a request for a Bill for Collection to the Debt Collection area in MRM Financial Management. Debt Collection personnel enter the billing information into AFS and send a collection letter to the payor. If there is no response to the letter, personnel telephone the payor. If payment is not submitted,

personnel issue a demand letter to the payor and a notice to the lessee who designated the payor. An account receivable is considered delinquent when the bill is not paid by the due date.

Debt Collection employees monitor the status of accounts receivable and initiate actions to secure payment on delinquent accounts. A microcomputer program in the Debt Collection area uses data downloaded from AFS to produce the first followup collection notice and collection telephone contact listing.

Collection actions on bills include:

- First followup collection notice to payors with delinquent invoices;
- Collection telephone call to the payor of record;
- Demand letter for payment to the payor;
- Notice to the lessee who designated the payor;
- Demand for payment from lessees of record for all bills;
- Request to BIA, BLM, or MMS offshore offices to collect against lease surety; and
- Referral to Treasury for further action.

The MRM issued 7,483 bills in FY 1999 and 6,969 bills in FY 2000. The number of first followup notices and notices to lessees who designated the payors fell in FY 2000 as a result of the decline in bills issued during the year.

The number of telephone calls to the payor of record remained stable at about 1,650 during the period FY 1999-2000 (table 10). The MRM emphasizes telephone calls to establish immediate contact with payors, providing an opportunity to resolve billing actions in an efficient and timely manner.

The number of demands for collection to lessees of record fell from 274 in FY 1999 to 58 in FY 2000 (table 10). Requests to BIA, BLM, and MMS offshore offices for lease surety collections also fell from 463 requests in FY 1999 to 185 requests in FY 2000 (table 10). Changes in these debt collection activities are directly related to the prior fiscal year billing activity. The decline in demands for collection to lessees of record and requests for lease surety collection in FY 2000 reflects a lower volume of bills issued in FY 1999 relative to FY 1998 when 9,213 bills were issued. The MRM continues to actively pursue collection of delinquent accounts with other Department bureaus and programs.

**Table 10. Actions to secure payment on
delinquent accounts, FY 1999-2000**

	<u>FY 1999</u>	<u>FY 2000</u>
Total bills issued	7,483	6,969
First followup notices	1,746	1,612
Telephone calls to payor of record	1,672	1,654
Demand letters for payment to payors	192	706
Notices to lessees who designated the payors	1,098	130
Demands for collection to lessees of record	274	58
Requests to BIA, BLM, and MMS offshore offices for lease surety collections	463	185
Notices to Treasury of noncompliance for failure to pay	-0-	44

The number of delinquent billed accounts receivable remained relatively stable at 1,697 at the end of FY 1999 and 1,689 at the end of FY 2000 (table 11). A delinquent account includes any bill that has not been paid by the due date.

The value of delinquent accounts secured by surety increased from \$148 million in FY 1999 to \$189 million in FY 2000 (table 11). Accounts in this category are primarily bills that have been appealed or are in litigation, where payors have posted a surety instrument guaranteeing payment if the issue is decided in the Department's favor.

The value of delinquent accounts not secured by surety fell from \$80 million in FY 1999 to \$24 million in FY 2000 (table 11). Unsecured delinquent accounts include unpaid bills in the early stages of collection (first followup notices and telephone contacts) and bills for which enforcement actions have been taken, including calling the lease surety and proceeding with legal action involving the Solicitor and the Department of Justice. Attempts to collect some unsecured bills are suspended because of administrative actions in process. The MRM continues to aggressively pursue delinquent accounts that are not secured by surety.

Table 11. Delinquent accounts activity, FY 1999-2000
(revenues in millions)

	<u>FY 1999</u>	<u>FY 2000</u>
Number of Delinquent Accounts		
Receivable (Bills Not Paid by		
Due Date)	1,697	1,689
Value of Delinquent Accounts		
Receivable for Which Surety		
Has Been Posted	\$148.0	\$189.0
Value of Delinquent Accounts		
Receivable for Which No Surety		
Has Been Posted	\$ 80.0	\$ 24.0

IV. INSPECTION AND ENFORCEMENT

A. Onshore

1. BLM Inspection and Enforcement Program

The BLM's nationwide Inspection and Enforcement (I&E) Program is designed to achieve the following objectives:

- Oil and gas produced from or allocated to Federal and American Indian leases will be properly handled, measured, and reported;
- All drilling, producing, and abandonment operations on jurisdictional lands will comply with approved operating plans for the protection of the environment, natural resources, and public health and safety; and
- All identified violations will be corrected.

The I&E Program is implemented by an I&E Strategy (Strategy) issued by the Washington Headquarters. The Strategy identifies inspection priorities based on budget limitations, manpower constraints, and program emphasis determined by BLM management. The BLM State Offices develop their inspection plans using the guidance provided in the Strategy. The plans identify the priority of inspection cases.

The current Strategy, first implemented in FY 1991, provides for a balance in production, drilling, and abandonment inspections, with emphasis on both environmental protection and production accountability. Production accountability is ensured through increased visual inspections of operator measurement actions and the review and comparison of measurement and production records. The Strategy also places more emphasis on protecting the environment through greater inspection coverage of drilling and abandonment operations. The BLM has improved its American Indian trust oversight responsibilities through a balanced inspection program and strengthened production accountability.

The BLM's Automated Inspection Records System, which recorded information related solely to I&E Program activities, was replaced in FY 1997 by the Automated Fluid Minerals Support System (AFMSS). The AFMSS continued to evolve in FY 2000 to meet program needs by providing the mechanism to integrate all of BLM's oil and gas responsibilities, including the ability to track individual well histories by lease, agreement, and operator, as well as all inspection and enforcement activities and related workload. The new system also provides online access to production disposition data maintained by MMS, and is used to monitor workload measures and performance indicators.

A system enhancement (module) was implemented in late FY 1999 to permit operators to submit electronic requests for approval of operational proposals and subsequent reports. Industry was encouraged to take advantage of this new system through various outreach efforts in FY 2000. A total of 118 operators have joined the system. The 66 operators who are currently active in the system have submitted over 3,000 transactions. Further enhancements are planned for FY 2001 and FY 2002 which are intended to reduce data entry requirements for BLM personnel and improve service to BLM's customers.

2. Program Review

The BLM State Offices administer quality assurance responsibilities through Technical Procedures Reviews, informal office visits, and analyses of inspection data recorded in AFMSS. The following Washington offices provide Headquarters oversight:

- The Management System Group provides bureauwide oversight for program implementation and management; and
- The Fluid Minerals Group provides oversight by formal and informal means, technical assistance, and program guidance.

3. BLM Certification and Training Programs

The BLM first implemented an Inspector Certification Program in FY 1987. This program ensures that employees involved in the I&E Program (inspectors and their supervisors) are experienced in the practices of the oil and gas industry and fully understand BLM's oil and gas operating regulations. This enables the employees to competently conduct independent inspection of industry activities and take needed enforcement actions. The BLM has identified 148 positions that require certification under the program. Training in drilling and production inspections for most of these positions has been completed. A work group continues to evaluate the Inspector Certification Program, including the various training modules, and recommends appropriate changes when necessary.

The BLM began production and drilling inspection training in February 1982. The Drilling Inspection course, addressing safety and environmental protection, was held once in FY 2000 for 26 students. The Production Inspection course, addressing production accountability and site security, was not conducted during FY 2000. The Production Verification course, addressing the procedures to be used for assuring that oil and gas production is handled and measured properly and that sales volumes are reported accurately, was not conducted in FY 2000. A total of 788 students representing the States, American Indian Tribes, BIA, BLM, MMS, National Park Service, and the U.S. Forest Service have attended these courses during the past 18 years.

The BLM began training in FY 1991 for supervisors involved in the I&E Program. The original I&E Managers course, addressing the information needed to administer the I&E Program, was

attended by 48 managers in the 8 years in which the course was offered. In FY 1999, BLM replaced this course with “Oil and Gas for Managers” which addresses managerial responsibilities across the entire oil and gas program, including I&E requirements. The course was conducted twice for a total of 27 students during FY 1999, but was not offered in FY 2000.

4. FOGRMA Regulations

In FY 1996, BLM began the process to reform its regulations under the provisions of Executive Order 12866, dated September 30, 1993. The intent of this process is to provide clear, concise regulations that are easy to understand and, where appropriate, are performance-based.

The first major rulemaking employing this process was developed in FY 1998. After an extensive internal review, the rulemaking was published for a 120-day public comment period in the Federal Register on December 3, 1998 (63 FR 66840). This proposed rulemaking incorporates most of the separate rulemaking previously finalized or proposed, and includes the performance standards contained in all of the existing Onshore Oil and Gas Orders. The comment period was subsequently extended twice (64 FR 14666, 29256) expiring on July 19, 1999. Review of over 700 comments received was completed by BLM’s Regulatory Affairs and Fluid Minerals Groups during FY 2000. A proposed final regulation package was transmitted to the Office of Management and Budget on December 30, 2000, for clearance to publish in the Federal Register.

A summary of current rulemaking activities that are not part of the reform process follows:

- **Proposed rulemaking (43 CFR 3100/3160), Drainage Protection.** The BLM published a proposed rulemaking for public comment in the Federal Register on January 13, 1998 (63 FR 1936), addressing drainage protection. The rulemaking, as proposed, was designed to:
 - Establish the date of the lessee's responsibility to protect its lease against drainage;
 - Establish a profit threshold identifying when protective drilling will be required;
 - Allocate the burden of proof of drainage between the lessee and the lessor; and
 - Specify the shared responsibilities of multiple interest owners.

The comment period was reopened on December 3, 1998, to allow American Indian Tribes and individual allotment owners an opportunity to submit their views concerning the application of the final rule to their leases. The last extension of the comment period expired on June 4, 1999. The internal review of the comments received was completed during FY 2000. The final rule was published in the Federal Register on January 10, 2001 (66 FR 1883), with an effective date of February 10, 2001.

A Federal Register notice on April 10, 2001 (66 FR 18569), extended the original effective date to April 10, 2001. Provisions of the final rulemaking related to joint and several liability were

placed in abeyance for 120 days beyond the rule's extended effective date to allow for the receipt of additional public comment on that aspect of the rule.

- **Proposed rulemaking (43 CFR Subpart 3130) Oil and Gas Leasing: National Petroleum Reserve, Alaska.** The BLM began the preparation of proposed regulations to implement those provisions of the FY 1998 Appropriations Act for the Department of the Interior and related agencies regarding unitization, suspension, and extension of leases within the National Petroleum Reserve in Alaska. An extensive internal review to define the content of these regulations was performed and a proposed rulemaking was published in the Federal Register for public comment on April 26, 2000 (65 FR 24542). The comments received have been reviewed and the final rule is expected to be published in the Federal Register during FY 2001.
- **Proposed rulemaking (43 CFR Parts 1840 and 1850) Appeals Procedures and Hearing Procedures.** The BLM published a proposed rulemaking for public comment in the Federal Register on October 17, 1996 (61 FR 54120). The original comment period was extended to January 17, 1997. The rulemaking would revise existing procedures for appeals and hearings now contained in approximately 60 separate parts of BLM's regulations into a single, consolidated process applicable to most BLM decisions. After an extensive internal review, BLM intends to re-propose the rulemaking in FY 2001 to incorporate a provision requiring a State Director Review Process before a party aggrieved by a Bureau decision may file an appeal with the Interior Board of Land Appeals.

5. Cooperative Agreements Under Section 202 of FOGPMA

The BLM published a final rule for the creation of cooperative oil and gas inspection and enforcement agreements with States and American Indian Tribes in the Federal Register on January 25, 1991 (56 FR 2998), with an effective date of February 25, 1991. The regulations were revised effective September 22, 1997 (62 FR 49586), to increase the funding level from 50 percent to 100 percent.

The BLM maintained cooperative agreements in FY 2000 for oil and gas inspection and enforcement activities on American Indian Tribal lands with the Ute Mountain Ute Tribe in Colorado, the Jicarilla Apache Tribe and Navajo Nation in New Mexico, and the Assiniboine Sioux Tribe in Montana. An approved cooperative agreement with the Southern Ute Tribe in Colorado remained inactive throughout the year. The Pawnee Tribe in Oklahoma expressed an interest in entering into a cooperative agreement during FY 2000; however, no formal request was received. The existing cooperative agreement with the Crow Tribe in Montana was converted to a self-determination contract during FY 2000. The BLM also maintained two other self-determination contracts for inspection and enforcement activities with the Blackfeet and the Chippewa-Cree Tribes in Montana in FY 2000.

Under the provisions of RSFA, states are no longer eligible for cooperative agreements under section 202 of FOGPMA. The BLM, however, has entered into unfunded Memoranda of Understanding with California, Colorado, and Nevada for inspection and enforcement activities on

Federal oil and gas leases in certain limited operational areas under the authority of the Federal Land Policy and Management Act of 1976.

6. Delegations of Authority Under Section 205 of FOGRMA

Regulations to implement the provisions of section 205 of FOGRMA for the delegation of BLM's oil and gas inspection and enforcement responsibilities to individual States were published in the Federal Register (52 FR 27182) with an effective date of August 17, 1987. There were no delegations of authority in effect during FY 2000.

7. FY 2000 Inspections and Enforcement Actions for Noncompliance

The BLM completed 16,513 inspection types in FY 2000, up 88 inspection items from 16,425 inspection types completed in FY 1999. These inspection types resulted in 5,273 enforcement actions in FY 2000, up 14.2 percent from 4,618 enforcement actions in FY 1999. The BLM made assessments totaling \$73,000 under the Mineral Leasing Act, as amended, and levied \$35,200 in civil penalties under section 109 of FOGRMA.

8. Production Accounting for Onshore Oil and Gas Leases

The transfer of responsibility from BLM to MMS for the collection of onshore production data was initiated in FY 1988. Beginning with the August 1989 production month, production reports for all onshore oil and gas leases and agreements have been submitted to MMS.

The MMS edits the production reports using well, lease/agreement, and operator information obtained from BLM's AFMSS database. Production data are then compiled and transmitted electronically to AFMSS. The BLM and MMS have also developed and implemented an automated system within AFMSS, Monthly Report of Operations, that provides field inspectors with production data for comparison with actual observations made during onsite inspection activities, including those conducted for production verification. The Monthly Report of Operations further provides production records submitted by operators that are compared by MMS with sales volume records reported by payors in conducting the AFS/PAAS exception identification program. This electronic interface between the two agencies occurs biweekly and automatically generates reports to show the data transferred. If any failure occurs in the transmission of data, followup actions to rectify the problems are taken within 10 days.

The BLM continued to work throughout FY 2000 to assist MMS to convert operator reports from Form MMS-3160 Monthly Report of Operations to the new Oil and Gas Operations Report. Modifications to BLM and MMS automated systems required by the conversion are on schedule.

B. Offshore

1. MMS Offshore Inspection Program

The MMS developed the Offshore Inspection Program (OIP) to promote safe and pollution-free operations on the OCS, ensure fair and consistent inspections, and verify operator compliance with agency requirements. Personnel with OMM continued the following OIP improvements in FY 2000:

- A workgroup continues to revise the National Potential Incident of Noncompliance (PINC) list and inspection guidelines. The PINC list is a checklist used by MMS inspectors to ensure that offshore operations on the OCS are conducted in a safe and environmentally sound manner in compliance with current MMS regulations. This list was last revised in December 2000 to incorporate changes in MMS regulations and reference standards, and to incorporate “plain English.” A workgroup continues to monitor this list to ensure that it remains current and relevant. This workgroup met again in April 2001 to review pending changes to MMS regulations, new MMS inspection responsibilities, necessary changes to the PINC list, and required inspector training issues. The PINC list is published on the MMS home page on the Internet at: <http://www.mms.gov/regcompliance/inspect.htm>.
- The MMS is continuing to develop methodology to assess the relative probability of offshore facilities experiencing an accident. The priority and frequency of MMS inspections will be based on this probability assessment. The project examines factors associated with operator performance and the type of operations conducted by the facility. Some of the general factors include:
 - Incidents occurring on a facility;
 - History of facility noncompliance with regulations; and
 - Information relating to the facility’s profile, including
 - Type of production;
 - Size of facility; and
 - Location of the facility.

The MMS will inspect facilities with a higher probability more frequently than facilities with a lower probability. The MMS will initiate a probability-based inspection pilot project in FY 2001 that should be fully implemented by the end of that year.

- The MMS continues to encourage OCS operators to voluntarily implement a Safety and Environmental Management Program (SEMP) that covers all of their lease operations. The

standard for a SEMP is documented in API Recommended Practice 75 that outlines a process for organizing 10 fundamental activities related to oil and gas drilling and production. An important focus of SEMP is to minimize the potential for human error that can cause incidents resulting in personal injury and pollution of the environment.

The MMS, in cooperation with the U.S. Coast Guard, API, and the Offshore Operators Committee, developed a set of commonly-defined, universally-applied measures to assess safety and environmental performance. About 75 percent of OCS operators voluntarily submitted data used by MMS to make performance measurement calculations for the 1999 calendar year. The results are made public through the Internet at <http://www.mms.gov/perfmeas/index.htm>.

The MMS also published a technical paper in FY 2000 that describes the OCS Performance Measure Program. The performance measures are used by offshore Operators to compare their relative performance with OCS averages and to assess individual performance progress. The performance data for FY 1999 were also used by MMS to identify “Pacesetting” companies that shared best operating practices at two workshops conducted in November 2000.

2. Offshore Inspection Activity

The MMS conducted 18,704 inspections of drilling, production, pipeline, measurement, site security, well completion, well workover, and abandonment operations during FY 2000. The effort included 17,924 inspections in the Gulf of Mexico Region and 780 inspections in the Pacific Region. There were no offshore operations to inspect in the Alaska Region in FY 2000.

V. MRM ORGANIZATION, FUNCTIONS, AND STRUCTURE

A. Federal Resources

The MRM core business processes are evolving into two principal processes that will fundamentally change the way MRM manages Federal royalty assets:

- **Financial Management** — Resources are devoted to six processes:
 - Collect revenue and royalty and production reports;
 - Communicate with reporters and perform error corrections;
 - Account for revenues;
 - Disburse funds;
 - Detect exceptions; and
 - Bill and collect delinquent receivable accounts.

Royalty and production information received from reporters will be entered into a program-wide data warehouse. This information, combined with industry, government, and market data, will be exchanged extensively within MRM, facilitating error resolution and providing for a more informed communication with reporters. The goal of the financial management process is to give recipients access to their revenues within 1 business day of MRM receipt.

- **Compliance and Asset Management** — Resources are devoted to ensure that all revenues are accurately reported and paid and that the compliance status of all leases is known. The process will collect data and conduct analysis to support the decision-making process to take royalty either in value or in kind as part of ongoing pilot projects when it makes good business sense and is in the Federal interest to do so.
 - In value: If there is no significant advantage to the Federal Government from taking mineral royalties in kind, MRM will take royalties in value. The goal to complete the in-value process is 3 years or fewer (the previous goal was 6 years).
 - In kind pilot: If there is an economic advantage to the Federal Government, either due to increased revenues or greater administrative efficiency, MRM will study taking royalties in kind as part of a pilot program. The goal is to complete compliance within 90 to 120 days.

The Headquarters for MRM is located in Washington, D.C. Many MRM operations are performed in Denver and in several field offices and audit residencies in other locations throughout the

United States. The majority of the audit staff is located in cities where many of the top royalty payors maintain accounting centers. Approximately one-half of the American Indian outreach staff is located in areas that have large American Indian populations.

Total resources allocated to MRM in FY 2000 included \$84.4 million, which funded a staff effort of 592 Federal employee workyears. Additional work performed by contract staff is addressed below.

The MRM provided funds for audit agreements and other direct support for 7 Tribes and 10 States in FY 2000. The direct support included telecommunication and automated data processing (ADP) services that enable the Tribes and States to interact with MRM systems and databases. The MRM devoted nearly \$7 million to the cooperative audit program during the year.

B. Contract Support

Contractors provided support for royalty management ADP and financial services in Denver in FY 2000. A brief description of major activities and obligated budget amounts for each contractor follows:

1. American Management Systems Operations Corporation, Inc.

The MMS awarded an ADP contract to the American Management Systems Operations Corporation, Inc., effective October 1, 1998. The firm performed the following ADP functions in FY 2000:

- Operations support for AFS, the Business Information System, the Interagency Database Verification System, PAAS, and the MRM wide-area network;
- Development and maintenance of a client/server environment and associated client/server applications;
- Software maintenance for AFS and PAAS;
- Software development for online access to solid minerals data;
- Operation of a mainframe computer and VAX minicomputer;
- Maintenance and support of the local area networks and wide area network;
- First and second level resolution of hardware and software problems;
- Deployment of Windows 98 and a standard MRM desktop;
- Maintenance and support for the STRAC sites;

- Technical documentation support for the payor and reporter handbooks, training manuals, and online help text for the client/server applications;
- Security support for both applications and networks; and
- Maintenance and support for computer output on laser disk applications.

The MMS obligated approximately \$9 million against the contract in FY 2000, funding 98 contractor workyears.

2. Optimum Management Systems, LLC

The MMS awarded a mail and records maintenance support service contract to Optimum Management Systems, LLC, a U.S. Small Business Administration 8(a) contractor, effective September 28, 1999. The contractor performed the following services in FY 2000:

- Operation of the PAAS Production Accountability Letter system;
- Operation of the MRM certified mailing system as well as maintenance of a central filing system; and
- Operation of records maintenance.

The MMS obligated \$348,798 against the contract in FY 2000, funding 8.5 contractor workyears.

3. ViON Corporation

The MMS modified the contract with ViON Corporation in October 1999, exercising the option period for maintenance of the Complementary Metal Oxide Semiconductor. The contract provides for additional upgrades over the system's 8-year life of the contract. The MMS obligated \$31,075 against the contract in FY 2000 for maintenance services.

4. Decision One Corporation

The MMS awarded a contract to Bell Atlantic Business Systems Services, Inc., in October 1995 for maintenance of IBM ADP hardware. The contract provides for 1 base year and 4 option years. The company changed its name to Decision One Corporation in April 1996. The MMS obligated \$11,156 against the contract in FY 2000.

5. SupplyTech, Harbinger Corporation

The SupplyTech contract is a firm-fixed price contract issued as a delivery order under the terms of the current Harbinger multiple award schedule contract developed by GSA. The contract was awarded on April 30, 1999, for development of an electronic commerce system to collect and deliver regulatory report data from an estimated 3,700 individual reporter services. The development effort was completed and accepted on January 12, 2000. Upon completion of development, the contract provides for 12 months of operational support. The MMS has currently obligated \$1,997,728 against the contract through the end of FY 2000.

6. Performance Engineering Corporation

The MRM began a comprehensive business process reengineering initiative in FY 1997 to redesign and implement new processes and support systems for the future. The MMS awarded a contract to Performance Engineering Corporation to identify information technology that will support the reengineering process. The firm performed the following services in FY 2000:

- Operations and maintenance support for Ruby-related operational model products;
- Collection and documentation of compliance functional statements;
- Assist MRM with financial system implementation activities;
- General support to continuing MRM reengineering activities;
- Design, develop, test, and implement enhancements to Ruby operational model products; and
- Compliance acquisition support.

The MMS obligated over \$1.9 million against the contract in FY 2000.

7. Accenture (formerly Andersen Consulting)

A contract for the design and implementation of the new MRM financial system was awarded to Andersen Consulting in September 1999. The firm changed its name to Accenture effective January 1, 2001. As their recommended commercial-off-the-shelf solution, Accenture will deploy PeopleSoft Financials for Government and Education. Accenture will further provide the following support:

- An Oracle relational database management system;

- Operations and support of the new system through a contractor-owned, contractor-operated facility managed by USInternetworking, Inc.; and
- Other technical capabilities, including data warehouse, workflow, and data administration.

The MMS obligated nearly \$11 million against the contract in FY 2000.

VI. STATUS OF THE LINOWES COMMISSION RECOMMENDATIONS

The Linowes Commission submitted 60 recommendations in January 1982 to improve the management of the Nation's energy resources and to prevent a loss of revenues owed the Federal Government, the States, and American Indians. The Department had implemented 54 of the 60 recommendations by the end of FY 1990.

The remaining six recommendations were found to be impractical after extensive review and analysis:

- **Operator of record.** The recommendation involved designation of an “Operator of Record” for each lease who would maintain all royalty records from the lease and reconcile payments to production reports on a monthly basis. The Department withdrew consideration of the concept following receipt of unfavorable comments from a Notice published in the Federal Register.
- **Sixty-day payment for gas.** The recommendation would have permitted payment of natural gas royalties within 60 days from the end of the sales month. Analysis revealed that the cost to the Federal Government, States, and Tribes would be prohibitive due to lost revenue that would result from an additional 30 days in the payment cycle.
- **Undocumented oil.** The Department was asked to seek legislation to prohibit the purchase of undocumented oil. Purchasers, including refiners, would be required to maintain documentation tracing the purchase of the product to a specific lease or unit.

The recommendation was not considered feasible due to the imposition of record requirements on industry. Nearly 75 percent of crude oil produced in the United States is derived from sources other than Federal and American Indian mineral leases. The MRM auditors examine the source of oil from Federal and American Indian lands as a function of the audit process, which satisfies the intent of the recommendation.

- **Windfall Profit Tax (WPT).** The recommendation would have relieved MRM of the responsibility for calculating and paying WPT on royalty-in-kind transactions, and would have required industry to calculate, withhold, and pay WPT on all crude oil sold from Federal leases. The Internal Revenue Service would have provided oversight.

The MMS elected to retain the WPT responsibility because of the cost and record requirements that would be imposed on industry, and the cost associated with the development of a new reporting system in MMS. Congress repealed the WPT on August 23, 1988.

- **Increased royalty rate.** The recommendation would have employed a minimum royalty rate of 16 2/3 percent on new or renegotiated leases. Internal and external studies were inconclusive. The Department elected not to pursue an increased rate.

The BLM amended regulations effective in September 1992 to establish conditions under which owners or operators of stripper oil well properties could obtain a reduced royalty rate. The action

is intended to encourage operators to place marginal or uneconomical wells back in production. A DOE study concluded that annual domestic oil production could increase by 4.7 million barrels.

- **Self-sustaining fund/levy.** The Secretary sought legislation during the period FY 1985-88 to establish a self-sustaining fund that would pay the costs of audits and inspections and reimburse States and Tribes for their efforts through cooperative agreements. Legislation was not enacted during the 4-year period.

GLOSSARY

Administrative Training Plan — Administrative Staff Series Occupational Training Plan. A training plan developed by Minerals Revenue Management to identify common training requirements for administrative support staff employees. The Plan encourages employees to complete a minimum of 80 hours of individual training every 2 years to improve personal performance.

ADP — Automated data processing.

AFMSS — Automated Fluid Minerals Support System. A computer system application operated by the Bureau of Land Management for storage and retrieval of oil and gas inspection and enforcement records.

AFS — Auditing and Financial System. A computer system application operated by the Minerals Management Service for collecting and disbursing royalties from producing leases and rents from nonproducing leases on Federal and American Indian lands.

ALEP — Allowance Limit Exception Processing. An automated program developed by the Minerals Management Service that employs royalty reports submitted by payors to determine compliance with regulatory allowance limits.

API — American Petroleum Institute. A trade association representing all segments of the petroleum industry from exploration through marketing. API is the largest association in the petroleum industry.

Assistant Secretary-Land and Minerals Management — An executive who serves under the Secretary of the Interior and exercises Secretarial direction and supervision over the Bureau of Land Management, the Minerals Management Service, and the Office of Surface Mining Reclamation and Enforcement.

BIA — Bureau of Indian Affairs. A Federal agency within the Department of the Interior responsible for facilitating the full development of the human and natural resource potential of American Indian and Alaskan Native people to manage their own affairs under a trust relationship with the Federal Government.

BLM — Bureau of Land Management. A Federal agency within the Department of the Interior that administers public lands and natural resources. BLM programs provide for the protection, orderly development, and use of the public lands and resources under principles of multiple use and sustained yield.

CAM — Compliance and Asset Management. A function within Minerals Revenue Management designed to ensure that all mineral revenues are accurately reported and paid. The function is further responsible for ensuring that the compliance status of all Federal and American Indian leases is

known. The function is divided within Minerals Revenue Management into two principal organizations: Offshore CAM and Onshore CAM.

CFR — Code of Federal Regulations. A codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

Department — Department of the Interior. A Cabinet-level department in the Executive Branch of the Federal Government responsible for the administration of most of the nationally-owned public lands and natural resources. The Department is further responsible for American Indian reservation communities and for individuals who live in Island Territories under U.S. administration.

Department of Justice. A Cabinet-level department in the Executive Branch of the Federal Government that serves as counsel for the United States. The Department of Justice is responsible for investigating, apprehending, and prosecuting offenders; representing the United States Government in Federal courts and before the Supreme Court; enforcing immigration laws; and operating the Federal prison system.

DOE — Department of Energy. A Cabinet-level department in the Executive Branch of the Federal Government responsible for coordinating a comprehensive and balanced national energy plan. DOE is responsible for long-term research and development of energy technology; marketing Federal power; energy conservation; the nuclear weapons program; and a central energy data-collection and analysis program.

Electronic Data Interchange . A process designed to exchange information electronically to reduce paper report volume, reduce errors and expedite error correction, and provide a more current database.

Explanation of Payment Reports. A series of reports produced by Minerals Revenue Management, mailed twice each month to Tribes and once each month to States. The reports for individual American Indian mineral owners are produced and distributed twice each month by the Bureau of Indian Affairs with information supplied by Minerals Revenue Management. The reports address the source and nature of mineral revenue disbursements.

FERC — Federal Energy Regulatory Commission. An independent agency created through the Department of Energy Organization Act in 1977. FERC regulates the transportation of natural gas in interstate commerce; the transportation of oil by pipeline in interstate commerce; the transmission and wholesale sales of electricity in interstate commerce; the licensing of private, municipal, and state hydroelectric projects; and provides oversight of related environmental matters.

FOGRMA — Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1701 et seq. Public Law 97-451 enacted to ensure that royalties from oil and gas produced from Federal and American Indian lands and the Outer Continental Shelf are properly collected and accounted for under the direction of the Secretary of the Interior.

FOIA — Freedom of Information Act, 5 U.S.C. 552. Enacted in 1966, FOIA established a presumption that records in the possession of Federal agencies are accessible to the people. Before FOIA, an individual had to establish a right to examine government records. With the passage of FOIA, the burden of proof shifted from the individual to the government. The “need to know” standard has been replaced by a “right to know” doctrine. FOIA established standards for determining which records must be disclosed and which records may be withheld. The law further provides administrative and judicial remedies for individuals denied access to records.

FY — Fiscal year. A period of time used for accounting purposes. The Federal Government recognizes a fiscal year that begins October 1 of 1 year and ends September 30 of the following year.

GSA — General Services Administration. A Federal agency that serves as one of three central management agencies in the Federal Government (the Office of Personnel Management and the Office of Management and Budget are the two remaining agencies with this function). GSA provides policy leadership and administers space, supplies, and services to enable Federal employees to accomplish their missions.

IBLA — Interior Board of Land Appeals. A board that exercises the delegated authority of the Secretary of the Interior, including the authority to hear appeals from decisions of the Director, Minerals Management Service, concerning computation and collection of royalties on Federal and American Indian mineral leases, and appeals from decisions of administrative law judges in civil penalty proceedings. In addition, the IBLA serves as the Secretary’s designate to decide appeals from decisions of officers of the Bureau of Land Management concerning the public lands and mineral resources, and from decisions of officers of the Office of Surface Mining Reclamation and Enforcement and of Departmental administrative law judges concerning regulation of surface coal mining activities.

I&E — Inspection and Enforcement Program. A Bureau of Land Management program designed to ensure that oil and gas production on Federal and American Indian leases is accurately reported by the lessee and verified by the Bureau of Land Management. The program further ensures that all drilling, producing, and abandonment operations comply with approved operating plans and that all violations are corrected.

IFB — Invitation for Bids. A request for prospective bidders to submit sealed bids in accordance with a clear, accurate, and complete requirement which promotes maximum competition.

IMDA — Indian Mineral Development Act of 1982, 25 U.S.C. 2101 et seq. An act that permits Tribes to enter into certain agreements for the disposition of Tribal mineral resources and for other purposes.

IMSC — Indian Minerals Steering Committee. A senior policy forum of officials from the Bureau of Indian Affairs, Bureau of Land Management, and Minerals Management Service established by the Department of the Interior to improve the management of American Indian minerals.

Indian CAM — Indian Oil and Gas CAM. An organization within the Minerals Revenue Management Onshore CAM designed to ensure that all American Indian mineral revenues are accurately reported and paid. The organization is further responsible for ensuring that the compliance status of all American Indian mineral leases is known.

IPAA — Independent Petroleum Association of America. A national trade association representing oil and natural gas exploration and production companies in the United States. The membership ranges from large public companies to small, privately held businesses.

Linowes Commission — Commission on Fiscal Accountability of the Nation's Energy Resources. A Commission that submitted 60 recommendations in January 1982 to improve management of the Nation's energy resources and to prevent a loss of revenues owed the Federal Government, the States, and American Indians. The Commission's work led to the creation of the Minerals Management Service and enactment of the Federal Oil and Gas Royalty Management Act of 1982.

MMS — Minerals Management Service. A Federal agency within the Department of the Interior that administers the Offshore Minerals Management Program and Minerals Revenue Management. The Offshore Minerals Management Program is responsible for the Outer Continental Shelf leasing program and for ensuring that exploration and production of the Nation's offshore mineral resources is conducted in a safe manner with concern for the environment. Minerals Revenue Management is responsible for the accurate and timely determination, collection, and distribution of royalties from Federal and American Indian lands and bonuses and rents from Federal lands.

Models — Operational Models. Minerals Revenue Management established five operational models under the reengineering project: Geothermal, Onshore Oil and Gas, Onshore Solid Minerals, Offshore Oil and Gas, and Jicarilla Apache Tribe. The models were established to complete the design and testing of future business processes; develop an understanding of information technology requirements; determine delegation implications with States and Tribes; and address organizational and cultural issues.

MRM — Minerals Revenue Management. An organization administered by the Minerals Management Service responsible for the accurate and timely determination, collection, and distribution of royalties from Federal and American Indian lands and bonuses and rents from Federal lands.

NHPF — National Historic Preservation Fund. A fund, currently administered by the National Park Service, designed to expand and accelerate historic preservation plans and activities. NHPF provides revenues for matching grants-in-aid to States and local governments and funds the National Trust for Historic Preservation. Offshore mineral leasing provides 100 percent of fund revenues.

OCS — Outer Continental Shelf. All submerged lands seaward and outside the area of lands beneath navigable waters. Lands beneath navigable waters are interpreted as extending from the coastline 3 nautical miles into the Arctic Ocean, the Atlantic Ocean, the Pacific Ocean, and the Gulf of Mexico, excluding the coastal waters off Texas and western Florida. Lands beneath navigable waters

are interpreted as extending from the coastline 3 marine leagues into the Gulf of Mexico off Texas and western Florida.

OCSLA — Outer Continental Shelf Lands Act of 1953, as amended, 43 U.S.C. 1331 et seq. An act that establishes procedures for U.S. jurisdiction over Outer Continental Shelf lands and authorizes the Secretary of the Interior to issue exploration permits and mineral leases for oil, gas, sulfur, and other mineral resources on those lands. The Secretary is authorized to implement alternative bidding systems, including net profit share leases, to promote development of marginal oil and gas deposits. Significant amendments were enacted into the original law in 1978 and 1985.

OIP — Offshore Inspection Program. A program developed by the Minerals Management Service to promote safe and pollution-free operations on the Outer Continental Shelf, ensure fair and consistent inspections, and verify operator compliance with agency requirements.

OMM — Offshore Minerals Management. A program administered by the Minerals Management Service responsible for the Outer Continental Shelf leasing program and for ensuring that exploration and production of the Nation's offshore mineral resources is conducted in a safe manner with concern for the environment.

Organization of Petroleum Exporting Countries. A cartel whose current members include: Algeria, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, United Arab Emirates, and Venezuela.

PAAS — Production Accounting and Auditing System. An integrated system of both automated and manual applications operated by the Minerals Management Service to collect production and other operational data and to ensure that royalties are paid on 100 percent of reported production.

PINC — National Potential Incident of Noncompliance List. A listing of all potential violations of Minerals Management Service field operation regulations used by agency officials in the inspection of offshore facilities.

RIK — Royalty in kind. A program operated under the provisions of the Mineral Leasing Act of 1920 and the Outer Continental Shelf Lands Act of 1953. The Federal Government, as lessor, may take part or all of its oil and gas royalties in kind (a volume of the commodity) as opposed to in value (cash). Under the oil RIK program, the Government sells oil at fair-market value to eligible refiners who do not have access to an adequate supply of crude oil at equitable prices. The Minerals Management Service conducted a gas RIK pilot program in 1995, entering into contracts to sell selected Gulf of Mexico natural gas by competitive bid to gas marketers. Two additional oil and gas pilot programs began in 1998, and a third gas pilot program began in 1999. A fourth pilot program involving crude oil in the Gulf of Mexico was introduced in 2000.

Road Map — Road Map to the 21st Century. The former Royalty Management Program (now known as Minerals Revenue Management) initiated a reengineering project to design, develop, and implement new core business processes, with supporting systems, for the 21st century. The *Road Map*,

published in November 1998, provided a 3-year path for implementation of new business processes, realignment of organizational structure, and development of supporting automated systems to complete the project.

RPC — Royalty Policy Committee. A committee established in 1995 as part of the Minerals Management Advisory Board to provide recommendations and guidance on royalty management policies and procedures. The RPC is composed of representatives from the Western Governors' Association, Western States Land Commissioners Association, States, Tribes and individual American Indian mineral owner organizations, the minerals industry, other Federal agencies, and interested members of the general public.

RSFA — Federal Oil and Gas Royalty Simplification and Fairness Act, 110 Stat. 1700. Public Law 104-185, as corrected by Public Law 104-200, enacted to amend the Federal Oil and Gas Royalty Management Act of 1982 and revise Minerals Management Service procedures in several respects.

Secretary — Secretary of the Interior.

SEMP — Safety and Environmental Management Program. A program in which offshore operators develop a plan describing the company's overall safety and pollution-prevention policies and procedures. The purpose of the program is to reduce the risk and occurrence of accidents and pollution associated with offshore oil and gas drilling and production operations through active risk management.

S/P Subcommittee — Sodium/Potassium Subcommittee. A subcommittee formed by the Royalty Policy Committee to assist the Minerals Management Service in drafting revised regulations that would govern royalty valuation procedures for sodium and potassium. Significant changes in the sodium and potassium industries have occurred since the original regulations were developed in 1978. The subcommittee is composed of Federal, State, and industry representatives.

STRAC — State and Tribal Royalty Audit Committee. An organization of State and Tribal representatives who meet to discuss royalty management and audit issues.

Strategy — Inspection and Enforcement Strategy. A Bureau of Land Management plan that identifies mineral inspection priorities for the fiscal year based on resource availability and program emphasis.

Treasury — Department of the Treasury. A Cabinet-level department in the Executive Branch of the Federal Government responsible for the financial resources of the United States. The Treasury is responsible for regulating national banks, determining international economic policy, collecting income taxes and customs duties, reporting Government daily financial transactions, and manufacturing coins and bills for circulation.

UDC — Ute Distribution Corporation. A corporation formed as a result of litigation addressing disputed ownership of mineral leases between the Uintah and Ouray Tribes and individual American

Indian mineral owners. UDC represents the individual American Indian mineral owners, collecting approximately 27 percent of mineral revenues generated on the reservation. The remaining 73 percent is allocated to the Tribes.

WPT — Windfall Profit Tax. An excise tax on a windfall profit from taxable crude oil removed from the premises of Federal leases after February 29, 1980. The tax applies only to production from wells in the United States or its possessions. Congress repealed the tax on August 23, 1988.

APPENDIX STATISTICAL HIGHLIGHTS

Mineral Revenue Collections, FY 1999-2000 (In Thousands)

	<u>FY 1999</u>	<u>FY 2000</u>	<u>Difference</u>
By Land Category			
Federal Offshore Lands	\$3,126,511	\$4,181,672	\$1,055,161
Federal Onshore Lands	1,006,098	1,530,093	523,995
American Indian Lands	<u>163,493</u>	<u>235,646</u>	<u>72,153</u>
TOTAL	\$4,296,102	\$5,947,411	\$1,651,309
By Revenue Source			
Total Royalties	\$3,336,447	\$5,249,831	\$1,913,384
Total Bonuses & Rents	<u>959,655</u>	<u>697,580</u>	<u>(262,075)</u>
TOTAL	\$4,296,102	\$5,947,411	\$1,651,309

Mineral Revenue Disbursements, FY 1999-2000 (In Thousands)

	<u>FY 1999</u>	<u>FY 2000</u>	<u>Difference</u>
Offshore Federal Lands			
Historic Preservation Fund	\$ (150,000)	\$ 150,000	\$ 300,000
Land and Water Conservation Fund	898,978	892,021	(6,957)
Environmental Improvement & Restoration Fund ..	---	896,592	896,592
State Shares (7 States)	93,854	108,469	14,615
U.S. Treasury: General Fund	<u>2,349,583</u>	<u>3,993,496</u>	<u>1,643,913</u>
Subtotal	\$3,192,415	\$6,040,578	\$2,848,163
Onshore Federal Lands			
Reclamation Fund	\$ 368,604	\$ 537,710	\$ 169,106
State Shares (35 States)	483,024	735,077	252,053
U.S. Treasury: General Fund	<u>154,470</u>	<u>257,306</u>	<u>102,836</u>
Subtotal	\$1,006,098	\$1,530,093	\$ 523,995
American Indian Lands			
Tribes and individual American Indian mineral owners	\$ 163,493	\$ 235,646	\$ 72,153
TOTAL	\$4,362,006	\$7,806,317	\$3,444,311

Audit Collections and Refund Denials, FY 1999-2000 (In Thousands)

	<u>FY 1999</u>	<u>FY 2000</u>	<u>Difference</u>
Minerals Revenue Management Program	\$ 88,442	\$170,715	\$ 82,273
State and Tribal	<u>26,718</u>	<u>48,221</u>	<u>21,503</u>
TOTAL	\$115,160	\$218,936	\$103,776

Exceptions Identification Programs, FY 1999-2000 (In Thousands)

	<u>FY 1999</u>	<u>FY 2000</u>	<u>Difference</u>
AFS/PAAS Exceptions	\$56,222	\$62,734	\$6,512
AFS Exceptions	12,178	12,801	623
Allowance Exceptions	101	379	278
Liquidated Damage Assessments	—	—	—
OCS Recoupments	8	10	2
American Indian Recoupments	140	553	413
Improper Adjustments	2,363	454	(1,909)
Royalty Rate Monitoring	<u>212</u>	<u>281</u>	<u>69</u>
TOTAL	\$71,224	\$77,212	\$5,988

**Audit and Exceptions Identification Collections,
Program Inception Through FY 2000 (In Millions)**

	<u>Total</u>
Audit Program, FY 1982-2000	\$1,971.7
AFS/PAAS Exceptions, FY 1985-2000	355.5
AFS Exceptions, FY 1985-2000	219.4
Allowance Exceptions, FY 1992-2000	6.8
Liquidated Damage Assessments, FY 1987-2000	4.4
OCS Recoupments, FY 1992-2000	2.4
American Indian Recoupments, FY 1992-2000	2.4
Improper Adjustments, FY 1993-2000	7.2
Royalty Rate Monitoring, FY 1995-2000	<u>1.4</u>
TOTAL	\$2,571.2

Delinquent Accounts, FY 1999-2000 (Revenues in Millions)

	<u>FY 1999</u>	<u>FY 2000</u>	<u>Difference</u>
Delinquent Accounts	1,697	1,689	(8)
Value of Accounts With Surety	\$148.0	\$189.0	\$ 41.0
Value of Accounts Without Surety*	\$ 80.0	\$ 24.0	\$(56.0)

*The MRM is aggressively pursuing action on these accounts.

Oil and Gas Leases, Payors, and Lines Processed, FY 1999-2000

	<u>FY 1999</u>	<u>FY 2000</u>	<u>Difference</u>
Oil and Gas Leases			
Producing	25,724	25,918	194
Nonproducing	<u>53,498</u>	<u>53,688</u>	<u>190</u>
TOTAL	79,222	79,606	384
Active Oil and Gas Payors Each Month	2,224	2,263	39
Oil and Gas Lines Processed Monthly	262,734	253,690	(9,044)